IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8859 of 2011

Decided on: 31st October, 2026

Laxmi Singh **.....Petitioner**

Versus

The Managing Director, Himachal Pradesh Road Transport Corporation and another **.....Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1]

For the Petitioner: Mr. Lokender Paul Thakur and Mr. Arun Kumar, Advocates.

For the Respondents: Ms. Shrutika Chauhan, Advocate.

Jyotsna Rewal Dua, Judge

Petitioner feels aggrieved against respondents terminating his services as Conductor during the probation period vide office order dated 06.03.1992.

2. Facts:-

2(i). Petitioner was appointed as Conductor by the respondent-Himachal Road Transport Corporation on 17.10.1990 (Annexure P-1). Clause 9 of the appointment order stipulated that petitioner shall be on probation for a period of two years; In case petitioner's work and conduct

---

[1] **Whether reporters of print and electronic media may be allowed to see the order? Yes.**

during the probation period was not found satisfactory, his services would be liable to be dispensed with without any notice. The clause reads as under:

> *"ix) He shall be on probation for period of two years to start with. In case his work and conduct during the period of probation is in the opinion of the Appointing Authority not satisfactory, his services shall be liable to be dispensed without any notice. Further even after the completion of probation period, the appointment may be terminated at any time by giving one month's notice or pay in lieu thereof by the Appointing Authority."*

2(ii). During the subsistence of probation period, respondents on 06.03.1992, holding that petitioner's services are no longer required, terminated him with immediate effect. The said office order is as under:-

> *"Office Order*
>
> *The services of Shri Lachhmi Singh Conductor HRTC Tapri are no longer required and he is terminated with immediate effect.*
>
> *By order*
>
> *Sd/-*
> *Assistant Manager,*
> *Himachal Road Transport Corporation, Tapri,*
> *District Kinnaur (HP)."*

2(iii). Petitioner preferred representation against termination of his services on 10.05.1992.

2(iv). Apparently, petitioner was also facing trial under Sections 342, 451, 380 read with Section 307 of the Indian Penal Code for allegedly committing theft by house-trespass in the building of one Sh. Khem Raj Gupta-

Superintendent of the respondent-Corporation. Besides the allegations of stealing household articles, the petitioner was also facing allegations of having attempted to commit murder of S/Sh. Hari Dutt and Ved Prakash by throwing kerosene oil on their beds, in the case.

2(v). Sessions Trial No.29-R/7 of 1995/1994, instituted on 18.12.1993, culminated on 26.06.1996. Learned Sessions Judge, Kinnaur Sessions Division at Rampur Bushahr acquitted the petitioner of the charges framed against him by giving him the benefit of doubt. Operative part of the judgment reads as under:-

> *"27. As a result of the above discussion, the accused Laxmi Singh is acquitted of all the charges framed u/s 342, 451, 380 read with Section 307 of the Indian Penal Code by giving him benefit of doubt. The case property be kept intact during the period of appeal and in case the appeal is filed the same be dealt with as per directions of the Hon'ble Appellate Court. The bail bonds of the accused and his surety are discharged. File, after completion, be consigned to record room."*

2(vi). Criminal Appeal No.705 of 1996 instituted by the State against the above judgment was dismissed by the Division Bench of this Court on 15.05.2010, holding that benefit of doubt in light of the evidence on record was rightly given to the petitioner.

2(vii). After the decision in the criminal case, petitioner once again represented to the respondent-Corporation on

15.07.2010 for his reinstatement as Conductor. Hearing no response from the respondents, petitioner instituted Civil Writ Petition, bearing CWP No.8506 of 2010, seeking his reinstatement into service with full back wages w.e.f. 06.03.1992 with all consequential benefits of seniority/ promotion to the higher post etc. The writ petition was disposed of on 06.01.2011 with direction to the respondent-Corporation to decide petitioner's representation after affording him an opportunity of hearing.

2(viii). In compliance to the above directions, respondent No.1-Corporation heard the petitioner on 14.03.2011 and vide office order dated 05.04.2011 rejected the same. While rejecting petitioner's representation, the respondents categorically observed that petitioner was discharged from service during the probation period in reference to his service record and not in relation to any criminal case.

It is in the aforesaid background that the petitioner has instituted this writ petition seeking quashing of office order dated 05.04.2011, rejecting his representation for reinstatement in service w.e.f. 06.03.1992 with all consequential benefits.

3. The sole contention urged by learned counsel for the petitioner is that respondents had terminated the services of the petitioner during probation period by a stigmatic order, which was impermissible. In this regard, reliance was placed upon ***Dr. Vijayakumaran C.P.V. Versus Central University of Kerala and others***[2], more particularly following paragraphs thereof:-

> *"10. In Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences*[3]*, the Court observed thus:*
>
> > *"21. One of the judicially evolved tests to determine whether in substance an order of termination is punitive is to see whether prior to the termination there was (a) a full-scale formal enquiry (b) into allegations involving moral turpitude or misconduct which (c) culminated in a finding of guilt. If all three factors are present the termination has been held to be punitive irrespective of the form of the termination order. Conversely if any one of the three factors is missing, the termination has been upheld."*
>
> *11. In the present case, all the three elements are attracted, as a result of which it must follow that the stated order is ex facie stigmatic and punitive. Such an order could be issued only after subjecting the incumbent to a regular inquiry as per the service rules. As a matter of fact, the Internal Complaints Committee had recommended to proceed against the appellant appropriately but the Executive Council proceeded under the mistaken belief that in terms of clause 7 of the contract, it was open to the Executive Council to terminate the services of the appellant without a formal regular inquiry as per the service rules. Indisputably, in the present case, the Internal Complaints Committee was constituted in reference to the complaints received from the girl students about the alleged misconduct committed by the appellant, which allegations were duly inquired into in a formal inquiry after giving opportunity to the appellant and culminated with the*

---

[2] (2020) 12 SCC 426
[3] (2002) 1 SCC 520

report recording finding against the appellant with recommendation to proceed against him.

Pursuant to the order passed in this case on 19.09.2026, learned counsel for the respondent-Corporation has placed on record a compendium of documents, which, *inter alia,* conveyed that complete record of the petitioner could not be traced by the respondents at this stage for the reasons mentioned therein.

4. Having **heard** learned counsel on both sides and on consideration of the case file as also the instructions placed on record, it becomes evident that services of the petitioner were terminated by the respondents on 06.03.1992, i.e. during his probation period. Alongwith the office instructions/compendium of documents, the respondents have placed on record history sheet of the petitioner pertaining to previous cases of dereliction of duties by him. History sheet at page 3 of the compendium of documents reflects 10 cases, where the petitioner had either been charge-sheeted by the respondents or was issued memos for dereliction of duties during a short span of service of less than two years. In fact, within two months of his joining the service, a charge-sheet was issued to him under Rule 16 of the CCS (CCA) Rules, which was taken to

its logical conclusion, whereunder, petitioner's one increment was stopped for six months. It appears that for another incident that took place within one month of his entering into service, a warning was issued to him. Another warning was issued to the petitioner for another incident that happened on 12.12.1991. The history sheet is an indicator that the respondents had issued three charge-sheets to the petitioner for different actions of misconduct attributed to him. In view of Clause 9 of petitioner's appointment order, the respondent-employer was justified in analyzing the work & conduct of the petitioner during the probation period and not finding it satisfactory, the order of termination simpliciter was passed on 06.03.1992.

Endeavor made by learned counsel for the petitioner to term this order as stigmatic in view of office order dated 05.04.2011 is though attractive, but cannot be accepted. The office order dated 05.04.2011 was passed pursuant to the directions issued in CWP No.8506 of 2010. The original termination order as passed on 06.03.1992 (extracted in para 2(ii) *supra)* cannot be said to be stigmatic. In the office order dated 05.04.2011, the respondents have clearly stated that petitioner's discharge from service during probation period was only in reference to his service record

and had nothing to do with the criminal case. This facet has been amply justified by the respondents in the compendium of documents placed on record, *inter alia*, giving history sheet of the petitioner pertaining to several incidents of dereliction of duties by him, wherein he was issued charge-sheets/memos etc. Different penalties had also been imposed upon him. Though the respondents have asserted that some inquiry was indeed conducted and the record of the same cannot be traced, however, in the given facts and circumstances, reliance placed by learned counsel for the respondents upon ***Parshotam Lal Dhingra Versus Union of India***[4] to the effect that a probationer during the probation period can be discharged simpliciter, do get attracted. ***Chaitanya Prakash and another Versus H. Omkarappa***[5], *inter alia*, holds as under:-

> *"18. It is no longer res integra that even if an order of termination refers to unsatisfactory service of the person concerned, the same cannot be said to be stigmatic. In this connection, we make a reference to the decision of the decision of the Supreme Court in Abhijit Gupta v. S.N.B. National Centre, Basic Sciences*[6]*, wherein also a similar letter was issued to the concerned employee intimating him that his performance was unsatisfactory and, therefore, he is not suitable for confirmation. We have considered the ratio in light of the facts of the said case and we are of the considered opinion that the basic facts of the said*

---

[4] AIR 1958 SC 36
[5] (2010) 2 SCC 623
[6] (2006) 4 SCC 469

case are almost similar to the one in hand. There also, letters were issued to the concerned employee to improve his performance in the areas of his duties and that despite such communications the service was found to be unsatisfactory. In the result, a letter was issued to him pointing out that his service was found to be unsatisfactory and that he was not suitable for confirmation, and, therefore, his probation period was not extended and his service was terminated, which was challenged on the ground that the same was stigmatic for alleged misconduct. The Supreme Court negatived the said contention and upheld the order of termination."

Reference can also be made to ***Life Insurance Corporation of India and another Versus Raghavendra Seshagiri Rao Kulkarni***[7], wherein it was held as under:-

"12. The requirement to hold a regular departmental enquiry before dispensing with the services dispensing with the services of a probationer cannot be invoked in the case of a probationer specially when his services are terminated by an innocuous order which does not cast any stigma on him. But it cannot be laid down as a general rule that in no case can an enquiry be held. If the termination is punitive in nature and is brought about on the ground of misconduct. Article 311(2) would be attracted and in that situation it would be incumbent upon the employer, in the case of Government service, to hold a regular departmental enquiry. In any other case also, specially those relating to statutory corporations or Government instrumentalities, a termination which is punitive in nature cannot be brought about unless an opportunity of hearing is given to the person whose services, even during the period of probation, or extended period, are sought to be terminated. (See: Parshotam Lal Dhingra v. Union of India[4] in which it was held that appointment to a permanent post on probation means that the servant is taken on trial, such an appointment comes to an end if during or at the end of the probation, the person so appointed is found to be unsuitable and his services are terminated by notice.

[7] (1997) 8 SCC 461

> *An appointment on probation or on an officiating basis is of a transitory character with an implied condition that such an appointment is terminable at any time. See also: Shamsher Singh v. State of Punjab[8]).”*

5. For the foregoing reasons, no interference is called for with the impugned order. This writ petition, therefore, lacks merit and is accordingly dismissed alongwith pending miscellaneous application(s), if any.

Jyotsna Rewal Dua
Judge

October 31, 2026
Mukesh

[8] (1974) 2 SCC 831