

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12667-2015
DECIDED ON: 26.02.2026

SAHIB SINGH

....PETITIONER(S)

VERSUS

UNION OF INDIA & ORS

....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Aryan Singh, Advocate for the petitioner(s).

Mr. Aseem Aggarwal, Advocate for the respondent-UOI.

SANDEEP MOUDGIL, J (ORAL)

Prayer

1. The present writ petition has been filed under Article 226 of the Constitution of India for quashing the order dated 29.05.2015 (Annexure P-7), whereby the services of the petitioner were terminated during the period of probation on the allegation that he had suppressed the fact of involvement in a criminal case at the time of recruitment in the Central Reserve Police Force (CRPF). The petitioner also seeks reinstatement in service with all consequential benefits.

Brief Facts

2. The petitioner participated in the recruitment process conducted by the Central Reserve Police Force for the post of Tradesman - washerman during the recruitment year 2013 – 2014 against a vacancy reserved for Scheduled Caste candidates. The petitioner successfully cleared the physical

standards test, written examination and the trade test. Upon being found medically fit, he was issued an appointment letter and joined service on 23.06.2014 at Group Centre, Jalandhar.

3. Prior to the appointment of the petitioner, FIR No.139 dated 29.11.2013 came to be registered at Police Station Amloh, District Fatehgarh Sahib under Sections 451, 427, 499, 506, 148, 149 and 120-B IPC. According to the petitioner, the said FIR arose out of a village dispute and political rivalry and no specific role was attributed to him.

4. Subsequently, during verification of antecedents, the respondents formed an opinion that the petitioner had concealed material information regarding the criminal case during the recruitment process. Consequently, a notice dated 29.05.2015 was issued to the petitioner stating that his services would stand terminated upon expiry of one month in terms of Rule 5(1) of the CCS (Temporary Service) Rules, 1965.

5. Aggrieved by the said action, the petitioner has approached this Court.

6. During the pendency of the present writ proceedings, the criminal trial arising out of FIR No.139 dated 29.11.2013 has culminated in the acquittal of the petitioner. The learned Trial Court, vide judgment dated 05.10.2023, has acquitted the petitioner of the charges levelled against him.

Contentions

On behalf of petitioner

7. Learned counsel for the petitioner submits that the impugned order of termination is arbitrary and unsustainable in law. It is contended that the petitioner had never suppressed the fact of the criminal case and had clearly disclosed the

pendency of the case while filling the verification roll at the time of joining service. Therefore, the very foundation of the impugned order, namely concealment of material information, is factually incorrect.

8. It is further argued that the criminal case against the petitioner arose out of a village dispute and the allegations are general in nature. The petitioner has neither been convicted nor arrested in the said case and the proceedings are still pending trial. Therefore, mere registration of an FIR cannot be treated as a disqualification for public employment.

9. Learned counsel also submits that the petitioner was permitted to join service after completion of the recruitment process and after scrutiny of his documents. Once the respondents allowed the petitioner to join service, they could not subsequently terminate his services on the same ground.

10. Reliance has been placed upon the judgment of the Supreme Court in *Avtar Singh v. Union of India (2016) 8 SCC 471*, to contend that where a candidate has disclosed the pendency of a criminal case, the employer must consider the nature of the offence and other circumstances before taking a decision regarding suitability.

On behalf of respondent-State

11. Per contra, learned counsel for the respondents submits that the petitioner deliberately concealed material facts relating to the criminal case registered against him. It is argued that during the recruitment process the petitioner did not disclose complete particulars of the criminal case and only made a vague reference to the pendency of a case while filling the verification roll.

12. It is further submitted that the true facts regarding the criminal case came to the notice of the department only upon verification conducted through the

District Authorities. Upon receiving such information, the respondents were constrained to take action in accordance with law.

13. Learned counsel for the respondents also submits that the petitioner was still undergoing probation and had not completed the initial period of service. In terms of Rule 5(1) of the CCS (Temporary Service) Rules, 1965, the services of a probationer can be terminated by giving one month's notice and no departmental inquiry is required in such cases.

14. It is lastly contended that the impugned order is a simple order of termination during probation and does not cast any stigma upon the petitioner.

Analysis

15. Upon hearing learned counsel for the parties and upon perusal of the pleadings and material placed on record, this Court finds that the core issue in the present petition concerns the allegation that the petitioner suppressed the fact of his involvement in a criminal case at the time of recruitment and the consequent termination of his services during the period of probation.

16. It is not disputed that the petitioner participated in the recruitment process conducted by the Central Reserve Police Force for the post of (Tradesman/Washerman) for the recruitment year 2013–2014. The petitioner successfully cleared all stages of the selection process and was issued an appointment letter, pursuant to which he joined service on 23.06.2014 at Group Centre, Jalandhar. Prior to his appointment, FIR No.139 dated 29.11.2013 had been registered at Police Station Amloh, District Fatehgarh Sahib under Sections 451, 427, 499, 506, 148, 149 and 120-B IPC.

17. The allegation of the respondents is that the petitioner concealed the pendency of the said criminal case during the recruitment process. The petitioner,

however, asserts that he disclosed the pendency of the case while filling the verification roll at the time of joining service. The respondents have stated that the disclosure was vague and incomplete, yet no material has been produced to establish that the petitioner deliberately or wilfully suppressed the fact of the FIR.

18. It is well settled that suppression of material facts must be intentional. In **Avtar Singh(supra)**, the Supreme Court held that where a candidate has disclosed the pendency of a criminal case, the employer must consider the nature of the offence and surrounding circumstances before determining suitability. The decision emphasizes that each case must be examined on its own facts and a mechanical rejection or termination is not justified. Relevant extract of the same is as under:

3. It cannot be disputed that the whole idea of verification of character and antecedents is that the person suitable for the post in question is appointed. It is one of the important criteria which is necessary to be fulfilled before appointment is made. An incumbent should not have antecedents of such a nature which may adjudge him unsuitable for the post. Mere involvement in some petty kind of case would not render a person unsuitable for the job.

19. The respondents have also justified the impugned order on the ground that the petitioner was still undergoing probation and his services were terminated under Rule 5(1) of the CCS (Temporary Service) Rules, 1965 by giving one month's notice. While it is true that the services of a probationer may be terminated in accordance with the said rule, such power cannot be exercised arbitrarily or for a stigmatic reason under the guise of a simple termination.

20. However, though the employer has a wider latitude while dealing with a probationer as compared to a regular employee, such discretion is not absolute and cannot be exercised arbitrarily or punitively under the cloak of a

termination simpliciter. The distinction between a termination founded on *unsuitability* and one founded on *misconduct* is no longer res integra.

21. The Supreme Court in **“Jai Singh v. Union of India 2006 (4) SCT 66”** while discussing that in what situation the allegation of misconduct will be the motive and in what cases they will be foundation has to be adjudged in the factual background of each case, while observing that,

*“ The issue has been examined in several decisions including several Constitution Bench judgments and a judgment of 7-judges. An elaborate analysis of the various decisions was made by this Court in **Radhey Shyam Gupta v. U.P. State Agro Industries Corpn. Ltd. and Anr., (1999(2) SCC 21)**. The matter was examined elaborately by 7-Judges in **Samsher Singh v. State of Punjab and Anr., (1974(2) SCC 831)**. In the said case it was noted in paragraphs 79 and 80 as follows:*

"79. The Enquiry Officer nominated by the Director of Vigilance recorded the statements of the witnesses behind the back of the appellant. The enquiry was to ascertain the truth of allegations of misconduct. Neither the report nor the statements recorded by the Enquiry Officer reached the appellant. The Enquiry Officer gave his findings on allegations of misconduct. The High Court accepted the report of the Enquiry Officer and wrote to the Government on June 25, 1969 that in the light of the report the appellant was not a suitable person to be retained in service. The order of termination was because of the recommendations in the report.

80. The order of termination of the services of Ishwar Chand Agarwal is clearly by way of punishment in the facts and circumstances of the case. The High Court not only denied Ishwar Chand Agarwal the protection under Article 311 but also denied itself the dignified control over the subordinate judiciary. The form of the order is not decisive as to whether the order is by way of punishment. Even an innocuously worded order terminating the service may in the facts and circumstances of the case establish that an enquiry into allegations of serious and grave character of misconduct involving stigma has been made in infraction of the provision of Article 311. In such a case the simplicity of the form of the order will not give any sanctity. That is exactly what has happened in the case of Ishwar Chand Agarwal. The order of termination is illegal and must be set aside."

10. *In Gujarat Steel Tubes Ltd. and Ors. v. Gujarat Steel Tubes Mazdoor Sabha and Ors. (1980(2) SCC 593)* it was observed as follows :

"53 : Masters and servants cannot be permitted to play hide and seek with the law of dismissals and the plain and proper criteria are not to be misdirected by terminological cover-ups or by appeal to psychic processes but must be grounded on the substantive reason for the order, whether disclosed or undisclosed. The Court will find out from other proceedings or documents connected with the formal order of termination what the true ground for the termination is. If, thus, scrutinized, the order has a punitive flavour in cause or consequence, it is dismissal. If it falls short of this test, it cannot be called a punishment. To put it slightly differently, a termination effected because the master is satisfied of the misconduct and of the consequent desirability of terminating the service of the delinquent servant, is a dismissal, even if he had the right in law to terminate with an innocent order under the standing order or otherwise. Whether, in such a case the grounds are recorded in a different proceeding from the formal order does not detract from its nature. Nor the fact that, after being satisfied of the guilt, the master abandons the enquiry and proceeds to terminate. Given an alleged misconduct and a live nexus between it and the termination of service the conclusion is dismissal, even if full benefits as on simple termination, are given and non-injurious terminology is used.

54. On the contrary, even if there is suspicion of misconduct the master may say that he does not wish to bother about it and may not go into his guilt but may feel like not keeping a man he is not happy with. He may not like to investigate nor take the risk of continuing a dubious servant. Then it is not dismissal but termination simpliciter, if no injurious record of reasons or punitive pecuniary cut-back on his full terminal benefits is found. For, in fact, misconduct is not then the moving factor in the discharge. We need not chase other hypothetical situations here."

22. This principle was reiterated in “***Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre*** (1999) 3 SCC 60”, wherein the Apex Court held that if the termination is based on allegations which cast a stigma or are likely to prejudice the future prospects of the employee, the order cannot be treated as innocuous. Relevant extract of the same is as under:

*In the matter of 'stigma', this Court has held that the effect which an order of termination may have on a person's future prospects of employment is a matter of relevant consideration. In the seven Judge case in **Samsher Singh v. State of Punjab, 1974(2) SCC 831**, Ray, CJ observed that if a simple order of termination was passed, that would enable the officer to "make good in other walks of life without a stigma". It was also stated in **Bishan Lal Gupta v. State of Haryana, 1978(1) SCC 202** that if the order contained a stigma, the termination would be bad for "the individual concerned must suffer a substantial loss of reputation which may affect his future prospects."*

24. *There is, however, considerable difficulty in finding out whether in a given case where the order of termination is not a simple order of termination, the words used in the order can be said to contain a 'stigma'. The other issue in the case before us is whether - even if the words used in the order of termination are innocuous, - the court can go into the words used or language employed in other orders or proceedings referred to by the employer in the order of termination ?*

25. *As to what amounts to stigma has been considered in **Kamal Kishore Lakshman v. Pan American World Airways, 1987(1) SCC 146**. This Court explained the meaning of 'stigma' as follows (p. 150) :*

"According to Webster's New World Dictionary, it (stigma) is something that detracts from the character or reputation of a person, a mark, sign etc., indicating that something is not considered normal or standard. The Legal Thesuras by Burton gives the meaning of the word to be blemish, defect, disgrace, disrepute, imputation, mark of disgrace or shame. The Webster's Third New International Dictionary gives the meaning as a mark or label indicating a deviation from a norm. According to yet another dictionary 'stigma' is a matter for moral reproach."

Thus, this court is of the opinion that it depends on the language or words employed in the order of termination of the probationer to judge whether the words employed amount to stigma or not.

23. In the present case, although the impugned order is couched as a termination under Rule 5(1) of the CCS (Temporary Service) Rules, the foundation of the action is the alleged suppression of the criminal case. The order, therefore, cannot be viewed as a mere administrative termination during probation.

24. It is also significant that during the pendency of the present writ proceedings, the criminal trial arising out of FIR No.139 dated 29.11.2013 has culminated in the acquittal of the petitioner. The learned Trial Court, vide judgment dated 05.10.2023, has acquitted the petitioner of the charges levelled against him. The criminal case was the principal basis for the termination of the petitioner's services and with the acquittal, the very foundation of the impugned action stands considerably weakened.

25. Considering the totality of the circumstances, this Court is of the view that the respondents have failed to establish deliberate suppression of material facts by the petitioner. The impugned order dated 29.05.2015, though framed as a termination during probation, is in substance founded upon the alleged involvement in the criminal case. In view of the petitioner's subsequent acquittal and the settled principles of law, the impugned action cannot be sustained and is liable to be set aside.

Conclusion

26. In view of the reasons recorded above, the present writ petition is allowed and the impugned termination order dated 29.05.2015 is hereby set aside.

The respondents are directed to reinstate the petitioner back in service with

continuity of service and release all consequential benefits including arrears of salary to the petitioner along with interest at the rate of 6% per annum from the date the salary became due till the date of actual payment, within a period of four weeks from the date of receipt of a certified copy of this order.

- 27. Ordered Accordingly.
- 28. Pending applications, if any, stands disposed off.

26.02.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

:Yes/No
:Yes/No