

206

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6309-2014
DECIDED ON:18.03.2026

BHAG SINGH

.....PETITIONER(S)

VERSUS

UNION OF INDIA AND OTHERS

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

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

Mr. Vijay K. Chaudhary, Advocate for the respondent-UI

SANDEEP MOUDGIL, J (ORAL)

Prayer

1. The jurisdiction of this court has been invoked under Article 226/227 of the Constitution of India seeking quashing of the impugned order dated 03.06.2013 (Annexure P-1) wherein the services of the petitioner have been terminated without any notice or opportunity of hearing.

The Conspectus of Facts

2. The petitioner was selected for appointment as Constable (GD) in the Central Reserve Police Force pursuant to a recruitment process conducted through the Staff Selection Commission in the year 2011. He joined service on 17.06.2012 at the Group Centre, Pinjore, Haryana and was thereafter kept at the Group Centre for several months awaiting commencement of training and was subsequently moved to the Subsidiary Training Centre at Kootah, Kathua (Jammu & Kashmir) in December 2012 for undergoing basic training.

3. While undergoing training, the petitioner was served with a termination notice dated 03.06.2013 (Annexure P-1) purporting to terminate his services under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 (in short as “1965 Rules”) by giving one month’s notice/pay in lieu thereof. Upon making representations, he was informally apprised that the termination was founded upon his alleged involvement in a criminal case bearing FIR No. 96 dated 01.07.2010 registered at Police Station Sadar Narwana, District Jind, which, according to the respondents, had been suppressed by him at the time of recruitment.

4. Aggrieved by the termination order dated 03.06.2013 and the non-consideration of his representation, the petitioner has invoked the writ jurisdiction of this Court seeking quashing of the impugned order and consequential reliefs.

Contentions

On behalf of the petitioners

5. Learned counsel for the petitioner contends that the impugned order of termination is in substance punitive and stigmatic, being founded on the allegation of suppression of involvement in a criminal case, and thus could not have been passed without complying with the safeguards of Article 311(2) of the Constitution of India and the principles of natural justice while arguing that no show cause notice, charge-sheet, or opportunity of explanation was ever afforded, rendering the action arbitrary and legally unsustainable.

6. Counsel further submits that the field of discharge/termination of personnel of the Force is specifically occupied by Rule 16 of the Central Reserve Police Force Rules, 1955,(in short as 1955 Rules) and in view of Rule 102 thereof, recourse to the Central Civil Services (Temporary Service) Rules was

impermissible where a specific provision already exists, thereby vitiating the impugned action on the ground of lack of jurisdiction.

7. It is urged that the alleged non-disclosure pertains to a criminal case of trivial nature not involving moral turpitude, arising out of village rivalry, in which the petitioner has since been acquitted, and therefore cannot be treated as a disqualification so as to justify termination. It is also contended that the failure to decide the statutory appeal/representation further compounds the illegality and arbitrariness in action.

On behalf of respondent/State

8. Per contra, learned counsel for the respondents submits that the petitioner, at the time of recruitment, was required to disclose his involvement in any criminal case in the attestation/verification form, which carried a clear warning that suppression of material information would render him unfit for government service and liable to termination. It is argued that the petitioner deliberately concealed the fact of his involvement in a pending criminal case, which came to light during verification of antecedents, thereby securing appointment by misrepresentation and fraud.

9. It is further contended that the petitioner was only a temporary government servant and his services were validly terminated in terms of Rule 5(1) of the 1965 Rules, which permits termination by notice without assigning reasons, and such termination does not attract Article 311(2) when it is simpliciter and not founded on misconduct established in a disciplinary enquiry. It is also urged that the writ petition is liable to be dismissed on the ground of lack of territorial jurisdiction, as the petitioner was posted and terminated in Jammu & Kashmir and the competent authorities are situated outside the jurisdiction of this Court.

Analysis

10. The controversy, at its core, turns not on the mere form of the impugned order, but on its true character. The respondents have invoked Rule 5 of the 1965 Rules to project the termination as one simpliciter. Yet, the law is well-settled and does not permit such cosmetic drafting to obscure the real foundation of the action. The Court must lift the veil.

11. It is evident from the record and the stand taken in the written statement that the termination is founded squarely on the alleged suppression of involvement in a criminal case. By no stretch of imagination can this be termed a termination simpliciter as it imputes lack of integrity and honesty, the attributes which go to the root of suitability in a disciplined force. It is well settled that if the order of termination casts a stigma on the Government servant in the sense that it contains a statement casting aspersions on his conduct or character, the said order can be treated by the Court as an order of punishment, but if the statement in the order refers only to the assessment of his work and does not, at the same time, cast aspersions on the conduct or character of the Government Servant, then, it cannot be concluded that the order, in reality, is an order of punishment. The test is how a reasonable person would read or understand the impugned order to know whether the order is stigmatic or not. In such circumstances, the distinction between “motive” and “foundation,” becomes determinative. Where misconduct forms the foundation of the action, the order ceases to be simpliciter and partakes the character of a punitive termination.

12. 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."

13. This principle was reiterated in “**Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre (1999) 3 SCC 60**”, wherein the Supreme 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."

14. The respondents' reliance on the form of the order is, therefore, misplaced. The Court is entitled to go behind the façade of the order to ascertain whether it is, in substance, punitive. Once it is found that the termination is founded on allegations of misconduct, compliance with Article 311(2) of the Constitution and the principles of natural justice is not optional—it is imperative. Reliance may also be placed on “**State of Punjab v. Sukh Raj Bahadur 1968 INSC 45**”, wherein it was categorically laid out that,

6. On a conspectus of these cases, the following propositions are clear :

1. The services of a temporary servant or a probationer can be terminated under the rules of his employment and such termination

without anything more would not attract the operation of Article 31 1 of the Constitution.

2. The circumstances preceding or attendant on the order of termination of service have to be examined in each case, the motive behind it being immaterial.

3. If the order visits the public servant with any evil consequences or casts an aspersion against his character or integrity, it must be considered to be one by way of punishment, no matter whether he was a mere probationer or a temporary servant.

4. An order of termination of service in unexceptionable form preceded by an enquiry launched by the superior authorities only to ascertain whether the public servant should be retained in service, does not attract the operation of Article [311](#) of the Constitution.

5. If there be a full-scale departmental enquiry envisaged Article [311](#) i.e. an Enquiry Officer is appointed, a charge sheet submitted, explanation called for and considered, any order of termination of service made thereafter will attract the operation of the said article.

15. Tested on this anvil, the impugned action cannot be sustained.

Admittedly, no charge-sheet was issued, no inquiry was conducted, and no opportunity of explanation was afforded to the petitioner. The termination, therefore, stands vitiated for breach of *audi alteram partem*—a principle so fundamental that its violation renders the action void, unless expressly excluded, which is not the case here.

16. There is yet another infirmity, equally fatal. The service conditions of the petitioner are governed by the Central Reserve Police Force Act and the Rules framed thereunder. In the first instance Rule 16 of the 1955 Rules and Rule 5 of Central Civil Service (Temporary Service) Rules, 1965, for facility of reference, are taken note of herein below:

"16. Period of Service -

(a) All members of the Force shall be enrolled for a period of three years. During this period of engagement, they shall be liable to discharge at any time on one month's notice by the appointing authority. At the end of this period those not given substantive status shall be considered for quasi-permanency under the provision of the Central Civil Services (Temporary Service) Rules, 1965. Those not declared quasi-permanent under the said rules shall be continued as temporary Government employees unless they claim discharge as per schedule to the Act. Those who are temporary shall be liable to discharge on one month's notice and those who are quasi-permanent shall be liable to discharge on three months' notice in accordance with the said rules, as amended from time to time.

(b) Should the Central Government decide at any time to disband the Force or any part of it either before termination of the period for which a member of the Force is enrolled or at any time thereafter, he shall be liable to discharge, without compensation from the date of disbandment.

(c) No member of the Force shall withdraw from the duties of his office without the express permission of the Commandant or an accredited gazetted officer.

(d) The appointing authority may, during the period of initial appointment of a member of the Force appointed under [section 4 and 5] of the Act, permit him, for good and sufficient reason, to resign from the Force with effect from such date as may be specified in the order accepting his resignation.

Provided that on the acceptance of his resignation any such member of the Force shall be required to refund to the Government all the cost of training imparted to him in the Force or a sum equal to three months' pay and allowances, received by him prior to the date of his resignation whichever is less.

Explanation.---(1) For the purpose of this sub-clause "during the period of initial appointment?" shall mean the period before a member of the Force is declared quasi-permanent.

(2) The appointing authority may refuse to permit a member of the Force to resign if any emergency has been declared in the country either due to internal disturbance or external aggression.

(e) The appointing authority may give substantive status to such members of the Force as are found suitable in all respect."

Rule 5 of CCS:

"5. Termination of temporary service- (1)(a) the services of a temporary Government Servant shall be liable to termination at any time by a notice in writing given either by the Government Servant to the appointing authority or by the appointing authority to the Government Servant;

(b) the period of such notice shall be one month;

Provided that the services of any such Government Servant may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowance for the period of the notice the same rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month.

Note - The following procedure shall be adopted by the appointing authority while serving notice on such Government Servant under clause (a) -

(i) The notice shall be delivered or tendered to the Government Servant in person.

(ii) Where personal service is not practicable, the notice shall be served on such Government Servant by registered post acknowledgment due at the address of the Government Servant available with the Appointing Authority.

(iii) If the notice sent by registered post is returned un-served, it shall be published in the official Gazette and, upon such publication, it shall be deemed to have been personally served on such Government Servant on the date it was published in the Official Gazette."

17. The petitioner's service conditions, as a CRPF Constable (probationer), were admittedly governed by the 1955 Rules. The CCS Rules can be made applicable in respect of a CRPF, Constable, when the Rules governing his service i.e., CRPF Rules, are silent over an issue sought to be dealt with. One would find that the exigency, as has occasioned in the present case, was very much covered by the CRPF Rules 1955, therefore, there was no occasion for the respondents to have pressed into service the General Rules i.e., CCS (Temporary Service) Rules, 1965, as the said rules are only supplementing and or providing an aid to the special set of rules-CRPF Rules only where the said Special Set of Rules are silent about a particular service exigency.

18. This court is fortified in its view by the judgment of the Apex Court, passed in case titled "**Jose Paulo Coutinho v. Maria Luiza Valentina Pereira & Anr.**" (2019) 20 SCC 85. Paragraph No. 29 of the said judgment being relevant is taken note of herein:

*"29. It is a well settled principle of statutory interpretation that which there is a conflict between the general law and the special law then the special law shall prevail. This principle will apply with greater force to special law which is also additionally a local law. This judicial principle is based on the latin maxim generalia specialibus non derogant, i.e., general law yields to special law should they operate in the same field on the same subject. Reference may be made to the decision of this Court in **"R. S. Raghunath v. State of Karnataka & Ors."**, **Commercial Tax Officer, Rajasthan v. Binani Cements Ltd. & Ors,"** and **Atma Ram Properties Pvt. Ltd. v. The Oriental Insurance Co. Ltd."***

19. A reference here to the judgment of the Apex Court passed in case titled **"Maya Mathew v. State of Kerala & Ors." (2010) 4 SCC 498**, would be relevant to be noted herein:

"(ii) When two provisions of law - one being a general law and the other being special law govern a matter, the court should endeavor to apply a harmonious construction to the said provisions. But where the intention of the rule making authority is made clear either expressly or impliedly, as to which law should prevail, the same shall be given effect"

20. Further, reference to the judgment of the Apex Court passed in **"E. Bapanaiah v. K. S. Raju Etc." (2015) 1 SCC, 451**, would be appropriate wherein at para 27 following has been provided: -

"27. The present case relates to a civil contempt wherein an undertaking given to Company Law Board is breached, Normally, the general provisions made under the Contempt of Courts Act are not invoked by the High Courts for forcing a party to obey orders passed by its subordinate courts for the simple reason that there are provisions contained in Code of Civil Procedure, 1908 to get executed its orders and decrees. It is settled principle of law that where there are special law and general law, the provisions of special law would prevail over general law. As such, in normal circumstances a decree holder cannot take recourse of Contempt of Courts Act else it is sure to throw open a floodgate of litigation under contempt jurisdiction. It is not the object of the Contempt of Courts Act to

make decree holders rush to the High Courts simply for the reason that the decree passed by the subordinate court is not obeyed. However, there is no such procedure prescribed to execute order of CLB particularly after proviso is added to section [634A](#) of the Companies Act, 1956, vide Companies (Second Amendment) Act, 2002."

21. Moreover, Rule 102 of the 1955 Rules provides that any matter for which no provision is made in the said 1955 Rules, such condition of service of the members of the Force shall be the same as are for the time being applicable to other Officers of the Government of India of corresponding status. This would mean that the CCS Rules in respect of petitioner were to be made applicable only if there was no provision in the CRPF Rules to take care of such exigency. But since the issue in question is squarely covered by Rule 16 of the CRPF Rules, therefore, the respondents were not justified in any way to apply the General Law i.e., the CCS Rules. The action being not in conformity with law, had to be set right and has rightly been done so by the writ court.

22. A perusal of the Rule 16 of the CRPF Rules, supra, unambiguously, reveal that termination of a CRPF probationer, (as was the status of the petitioner), is governed by such Rule providing that a probationer can be terminated within a period of three years service on one month's notice by the appointing authority. The respondents, however, have bypassed the special regime and invoked Rule 5 of the 1965 Rules. Such an approach offends the settled principle *generalia specialibus non derogant* - general provisions must yield to special provisions. Therefore, the action suffers from a jurisdictional error.

23. Even otherwise, the foundation itself is legally tenuous. The alleged suppression pertains to a criminal case in which the petitioner has ultimately been acquitted. In this connection, we may refer to the character '*Jean Valjean*' in Victor Hugo's novel '*Les Miserables*', in which for committing a minor offence of

stealing a loaf of bread for his hungry family Jean Valjean was branded as a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life.

24. Support may be drawn from the Supreme Court in ***Commissioner of Police v. Sandeep Kumar, (2011) 4 SCC 644***, where the court emphasised that minor indiscretions of youth, particularly in cases not involving moral turpitude, ought not to be visited with extreme consequences such as denial or deprivation of public employment. The approach must be reformatory rather than punitive. Relevant extract of the same is under,

14A. As already observed above, youth often commit indiscretions, which are often condoned.

15. It is true that in the application form the respondent did not mention that he was involved in a criminal case under Section [325/34](#) Indian Penal Code. Probably he did not mention this out of fear that if he did so he would automatically be disqualified.

16. At any event, it was not such a serious offence like murder, dacoity or rape, and hence a more lenient view should be taken in the matter.

25. More recently, in ***Avtar Singh v. Union of India, (2016) 8 SCC 471***, the Court delineated the contours governing suppression of criminal antecedents and held that each case must be assessed on the nature of offence, its outcome, and the attendant circumstances. The 'McCarthyism' is antithesis to constitutional goal, chance of reformation has to be afforded to young offenders in suitable cases, interplay of reformatory theory cannot be ruled out in to nor can be generally applied but is one of the factors to be taken into consideration while exercising the power for terminating or discharging an employee from service and mechanical rejection or termination is impermissible.

26. This court is sanguine of the fact that the soul of justice lies not in retribution but in redemption. Where a person has already been acquitted, the

shadow of a past accusation cannot be permitted to eclipse the entirety of his future; to do so would be to convert a transient allegation into a permanent civil disability. Public employment cannot be denied on the basis of a stigma that the law itself has erased. The modern jurisprudential approach must therefore be reformatory, not punitive, seeking to reclaim rather than reject, to heal rather than to brand, lest the justice system, in its rigidity, defeats its own humane purpose.

27. In the present case, the respondents neither afforded an opportunity to the petitioner to explain the circumstances of the alleged non-disclosure nor undertook any nuanced assessment of the nature of the offence or its eventual outcome. The action is thus arbitrary, disproportionate, and violative of Article 14 as well. The argument of the respondents that a temporary servant can be terminated without assigning reasons cannot be accepted in a situation where the termination is founded on allegations which are stigmatic. The constitutional protection is not eclipsed by the label of “temporary employment.”

28. The objection as to territorial jurisdiction also does not detain this Court. A part of the cause of action, namely, the recruitment process, initial appointment, and antecedent events arose within the territorial jurisdiction of this Court. In view of Article 226(2) of the Constitution, this Court is competent to entertain the petition.

Conclusion

29. In view of the above, this Court is constrained to hold that the impugned order dated 03.06.2013 is not a bona fide exercise of power under Rule 5 of the 1965 Rules, but a punitive action cloaked as a simpliciter termination, passed in breach of the principles of natural justice, in disregard of the governing statutory framework, and in violation of settled constitutional doctrine.

30. Consequently, the impugned order is set aside. The petitioner shall be reinstated in service forthwith with all consequential benefits along with 6% p.a. interest on the arrears from the date of accrual till it’s actual realisation. The respondents are directed to release the same within a period of 4 weeks from the date of receipt of a certified copy of this order.
31. Accordingly, the present writ petition is allowed.
32. Pending application(s), if any shall be disposed off.

18.03.2026
Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No