

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110+271

CM-996-CWP-2026 in/and
CWP-22733-2025

DECIDED ON: 28.01.2026

TARUN KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Kartikey Chaudhar, Advocate
for the petitioner

Ms. Mayuri Lakhanpal Kalia, D.A.G., Haryana

SANDEEP MOUDGIL, J

CM-996-CWP-2026

This is an application for placing on record the judgment dated
24.12.2025 (Annexure P-7).

For the reasons mentioned in the application, the same is allowed
and Annexure P-7 is taken on record subject to all just exceptions.

CWP-22733-2026

Prayer

The jurisdiction of this Court has been invoked under Article 226 of
the Constitution of India for issuance of a writ in the nature of certiorari to
quash the order dated 19.07.2025/01.08.2025 (Annexure P-4) whereby the
petitioner's services were dispensed with by the respondents and a direction to
grant the petitioner all consequential benefits.

Brief Facts

The petitioner was appointed as Drugs Control Officer on the
recommendation of the Haryana Public Service Commission pursuant to the

judgment of the Supreme Court in *State of Haryana vs. Krishan Kumar*, vide appointment letter dated 10.08.2023, and joined service on 25.08.2023. He was posted at Charkhi Dadri on 12.12.2023.

On 15.05.2025, an FIR No. 16 was registered against the petitioner under Sections 7 & 7A of the Prevention of Corruption Act, 1988 and Sections 61(2) & 308(2) BNS. The petitioner was arrested and subsequently granted bail by the learned Sessions Judge, Charkhi Dadri, vide order dated 02.07.2025, wherein it was prima facie observed that no direct recovery was effected from him.

Relying solely upon the registration of the said FIR, and during the pendency of investigation, the services of the petitioner were dispensed with vide order dated 19.07.2025/01.08.2025/01.08.2025 with retrospective effect from 15.05.2025, invoking Rule 10(2)(a) of the relevant Service Rules. The present writ petition was filed on 03.08.2025 challenging the said termination order.

During the pendency of the petition, the petitioner has been discharged by the learned Sessions Judge vide judgment dated 24.12.2025 (Annexure P-7), which has been placed on record vide application no. CM-996-CWP-2026.

Contentions

On behalf of Petitioner

Learned counsel for the petitioner contends that the impugned order dated 19.07.2025/01.08.2025 (Annexure P-4) dispensing with the petitioner's services is arbitrary, illegal and unsustainable in law, as the same is founded solely on the registration of an FIR, without any finding of guilt or even filing of challan at the relevant time. It is submitted that mere pendency of a

criminal case cannot be a ground to terminate the services of a probationer, particularly when the action is stigmatic in nature.

It is further argued that the petitioner had an unblemished service record, his Confidential Reports for the relevant years were graded “Very Good”, and he was awarded an appreciation certificate for excellent performance, which clearly demonstrates that the termination is not based on unsuitability or lack of performance.

Learned counsel further submitted that the learned Sessions Judge, while granting bail, recorded a prima facie finding that there was no direct recovery from the petitioner, and during the pendency of the present writ petition, the petitioner has been discharged by the competent criminal court, rendering the very basis of the termination non-existent.

It is, therefore, urged that the impugned order dated 19.07.2025/01.08.2025 (Annexure P-4) be quashed being punitive in nature, passed without holding any departmental inquiry and in violation of principles of natural justice.

On behalf of Respondents

Per contra, learned State counsel submits that the petitioner was appointed on a provisional/conditional basis and was still on probation at the time of termination. In terms of Rule 10(2)(a) of the Haryana Food and Drugs Administration Department Subordinate Offices (Group-B) Service Rules, 2018 and the conditions of appointment, the competent authority was fully empowered to dispense with the services of the petitioner during the probation period.

It is contended that a serious criminal case under the Prevention of

Corruption Act was registered against the petitioner and he was arrested in connection therewith, which itself rendered him unsuitable to be retained in public service, especially in a sensitive post.

Learned State counsel further submits that the termination order is simpliciter in nature, does not cast any stigma, and has been passed in administrative exigency. It is argued that subsequent developments in the criminal case, including grant of bail or discharge, do not automatically entitle the petitioner to reinstatement.

Analysis

The issue that arises for consideration is whether the services of a probationary employee can be dispensed with solely on the basis of registration of a criminal case, particularly when the employee has subsequently been discharged by the competent criminal court.

The law with regard to termination of the services of a probationer is well established and it has been repeatedly held that such a power lies with the appointing authority which is at liberty to terminate the services of a probationer if it finds the performance of the probationer to be unsatisfactory during the period of probation. The assessment has to be made by the appointing authority itself and the satisfaction is that of the appointing authority as well. Unless a stigma is attached to the termination, the management or the appointing authority is not required to give any explanation or reason for terminating the services except informing him that his services have been found to be unsatisfactory.

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.

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."

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."

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.

In the present case, the impugned order dated 19.07.2025/01.08.2025 (Annexure P-4) dispensing with the services of the petitioner is not predicated upon any assessment of his performance or suitability during probation since, the material on record demonstrates that the petitioner's service record was consistently rated "Very Good" and he was even awarded an appreciation certificate for excellent service. There is not even a single allegation of inefficiency, indiscipline or lack of integrity dehors the criminal case.

The sole and exclusive basis of the impugned action is the registration of FIR No. 16 dated 15.05.2025 under the Prevention of Corruption Act. At the time of passing the order, the investigation was incomplete and even the challan had not been presented. Thus, the action taken was founded on an accusation, not on any adjudication or finding.

Moreover, this court is sanguine of the settled legal position that mere registration or pendency of a criminal case cannot, by itself, be treated as proof of misconduct. In "***Union of India v. Ashok Kumar Aggarwal (2013) 16 SCC 147***", the Supreme Court cautioned that an employee cannot be condemned on the basis of allegations which have not been tested in accordance with law, while observing that,

“However, suspension order should be passed only where there is a strong prima facie case against the delinquent, and if the charges stand proved, would ordinarily warrant imposition of major punishment i.e. removal or dismissal from service, or reduction in rank etc.”

The matter assumes greater significance in the present case as, during the pendency of the writ petition, the petitioner has been discharged by the learned Sessions Judge vide judgment dated 24.12.2025 (Annexure P-7). The discharge order wipes out the very basis on which the administrative action was taken. Once the criminal court, upon application of judicial mind, finds that the prosecution case does not warrant continuation, the employer cannot persist with an action that is exclusively founded on the same accusation.

Where the employer's action is motivated by allegations of misconduct, the termination is punitive, regardless of the employee's probationary status. Applying the said test, the impugned order dated 19.07.2025/01.08.2025 (Annexure P-4) clearly fails, as the foundation of the action of dispensing with the services of the petitioner is based merely on allegation of criminal misconduct.

Further, where an employee has been discharged by the competent Court, the employer must take a fair and reasonable view and cannot mechanically continue adverse consequences arising out of mere allegations.

Before parting, this Court considers it necessary to observe that probation is a period of assessment, not a stage for punitive exclusion. A probationer, though holding no indefeasible right to continue, is nevertheless entitled to constitutional fairness and protection against arbitrary action. To terminate the services of a probationer solely on the basis of an unproven

allegation, and to continue such termination even after the criminal court has discharged him, would be to convert probation into a tool of punishment rather than evaluation.

The continued operation of the impugned order dated 19.07.2025/01.08.2025 (Annexure P-4) even after the petitioner's discharge would amount to inflicting an adverse civil consequences on the basis of a mere suspicion which has not matured into guilt. Such an approach would be antithetical to the constitutional guarantee under Articles 14 and 16 of the Constitution of India and would permit arbitrariness to masquerade as administrative discretion.

Conclusion

This Court is, therefore, of the considered opinion that the impugned order dated 19.07.2025/01.08.2025 (Annexure P-4) dispensing with the services of the petitioner is punitive in substance, arbitrary in effect, and unsustainable in law.

The impugned order dated 19.07.2025/01.08.2025 (Annexure P-4) is hereby quashed and the respondents are directed to take the petitioner back in service and also to grant him all consequential benefits alongwith 6% interest from the date of accrual to the date of it's actual realisation.

Accordingly, the present petition is hereby allowed. Pending applications, if any, stand disposed of.

28.01.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

:Yes/No
:Yes/No