



LPA-1803-2017 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

LPA-1803-2017 (O&M)

Date of decision: 11.05.2026

STATE OF HARYANA AND ANR

....Appellants

Versus

ISRAIL

...Respondent

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Sunil Kumar Nehra, Sr. Advocate with
Mr. Rahil Mahajan, Advocate
for the respondent.

ASHWANI KUMAR MISHRA, J. (Oral)**CM-3330-LPA-2026**

Application for placing on record judgment dated 19.01.2012 as
Annexure A-1 is allowed.

Registry to place the same at appropriate place.

Main case

1. This appeal is filed by the State of Haryana assailing the judgment of the learned Single Judge dated 10.05.2017, whereby the writ petition filed by the respondent-employee has been allowed.
2. The respondent-petitioner was employed as Junior Engineer in the Irrigation Department of the State of Haryana on 02.11.2006. While he was working on probation, an FIR came to be lodged against the respondent-petitioner alleging therein that he had demanded and accepted illegal gratification of Rs.2,000/- for extending an undue favour. In a trap case, the respondent-petitioner was arrested and recovery of bribe money was made from



him. The disciplinary authority of the appellants consequently passed an order of termination against the respondent-petitioner. This was done on the direction of the superior authority. It is undisputed that no disciplinary enquiry was conducted before terminating the services of the respondent-petitioner. The basis of termination was the FIR lodged against the respondent-petitioner in respect of the aforesaid trap case.

3. The criminal proceedings initiated against the respondent-petitioner ultimately ended with an order of acquittal passed in his favour in sessions trial in case No.2, decided by Special Judge, Nuh vide judgment and order dated 19.01.2012. The primary reason for acquittal was the fact that the prosecution could not establish that the respondent-petitioner was in a position to extend any undue favours. It is in this context that the Court of Sessions acquitted the respondent-petitioner, while observing as under:-

“28. Hence as a sequel to my above detailed discussion, since sufficient doubt has crept in the mind of the court regarding the plausibility and truthfulness of the prosecution case, therefore, by giving benefit of doubt to the accused, he is acquitted of the charges framed against him. He is on bail. His bail bonds stand discharged. File be consigned to record room.”

4. On behalf of the State, it is argued by Mr. Mohunta that the yardstick for conviction in a criminal case is materially distinct from the termination to be effected by the employer in disciplinary proceedings. It is also argued by the State counsel that the charge levelled by the prosecution against the respondent-petitioner that he had accepted illegal gratification and that the chemical solution had turned pink showing that the respondent-petitioner had received the illegal bribe, was not disputed or set aside. It is therefore submitted that the appellant-employer had the discretion to analyze the suitability of the



candidate for being retained in service and as the employee had failed to satisfactorily complete the probation period, therefore, the termination order passed against him merited no interference. In the alternative, it is argued that even if the Court was of the view that on acquittal in criminal proceedings, the employer could not have based its conclusions without conducting disciplinary enquiry, at best liberty could have been granted to the employer to conduct disciplinary enquiry in the matter, and the contrary view taken is unsustainable.

5. Mr. Nehra, learned senior counsel for the respondent-petitioner on the other hand submits that there was no material or finding, on the basis of which the termination order could have been passed against the respondent-petitioner, inasmuch as except for his implication in the criminal case, there was no other material to enable the employer to form an opinion that the working of the respondent-petitioner was not suitable or that he was not entitled to be confirmed on completion of probation period. It is also argued that the competent authority had in fact recommended for his reinstatement, but the same was not accorded consideration.

6. Reliance is placed upon the judgment of the Supreme Court in ***Joint Action Committee of Air Line Pilots Association of India (Alpai) and others vs. Director General of Civil Aviation and others, 2011(5) SCC 435***, to submit that no direction could have been issued by the higher authority so as to limit the discretion of the employer in dealing with the services of the employee concerned. Reliance is placed upon para 26 of the judgment, which reads as under:-

“26. The contention was raised before the High Court that the Circular dated 29.5.2008 has been issued by the authority having no competence, thus cannot be enforced. It is a settled legal proposition that the authority which has been



*conferred with the competence under the statute alone can pass the order. No other person, even a superior authority, can interfere with the functioning of the Statutory Authority. In a democratic set up like ours, persons occupying key positions are not supposed to mortgage their discretion, volition and decision making authority and be prepared to give way to carry out commands having no sanctity in law. Thus, if any decision is taken by a statutory authority at the behest or on suggestion of a person who has no statutory role to play, the same would be patently illegal. Vide: The **Purtabpur Co., Ltd. v. Cane Commissioner of Bihar & Ors.**, AIR 1970 Supreme Court 1896; **Chandrika Jha v. State of Bihar & Ors.**, AIR 1984 Supreme Court 322; **Tarlochan Dev Sharma v. State of Punjab & Ors.**, AIR 2001 Supreme Court 2524; and **Manohar Lal (D) by L.Rs. v. Ugrasen (D) by L.Rs. & Ors.**, AIR 2010 Supreme Court 2210.”*

7. Learned senior counsel has also placed reliance upon recent judgment of the Supreme Court in ***Pinky Meena vs. The High Court of Judicature for Rajasthan At Jodhpur, 2025 INSC 756***, wherein the Supreme Court has relied upon the previous judgment of the Supreme Court in ***Shamsher Singh vs. State of Punjab, (1974) 2 SCC 831***, to contend that the order of termination is stigmatic as it could not have been passed without holding an enquiry, even though the employee was a probationer. The judicial law with regard to passing of a stigmatic order against a probationer has been consistently upheld by the Supreme Court right from the judgment of the Court in ***Purshotam Lal Dhingra vs. Union of India, 1958 AIR SC 36*** and in ***Shamsher Singh*** (supra), as per which the services of the probationer could not be terminated when the order itself is stigmatic in nature. In para 27 of the judgment in ***Pinki Meena*** (supra), the Supreme Court has observed as under:-

*“27. Further, the order discharging the appellant from service violates principles of natural justice, as the appellant was not provided an opportunity to be heard during the enquiry that was required to be conducted. At this juncture, reliance is placed on **Shamsher Singh v. State of Punjab (1974) 2 SCC 831**, which clarified that:*



“No abstract proposition can be laid down that where the services of a probationer are terminated without saying anything more in the order of termination than that the services are terminated it can never amount to a punishment in the facts and circumstances of the case. If a probationer is discharged on the ground of misconduct, or inefficiency or for similar reason without a proper enquiry and without his getting a reasonable opportunity of showing cause against his discharge it may in a given case amount of removal from service within the meaning of Art. 311 (2) of the Constitution.”

8. Learned State counsel, on the other hand, states that in the facts of the present case, the learned Single Judge has erred in setting aside the order of termination and directing reinstatement of the services of the respondent-petitioner, only because of the acquittal order passed by the Criminal Court by granting him benefit of doubt.

9. Having heard learned counsel for the parties, we find that the termination of the respondent-petitioner was based entirely on his implication in the criminal case, which has ultimately led to his acquittal by the competent Court of Sessions. There was no independent application of mind by the disciplinary authority with regard to the aspect of confirmation of probationer in service on the strength of his working. Law clearly recognizes the right with the employer to examine the suitability of a candidate for the purposes of his confirmation in service. However, when the consideration for confirmation is not the working of the employee, but is a specific charge which is stigmatic in nature, the only course in which the probationer could be terminated is after holding him guilty in the disciplinary enquiry. In the present case, no such disciplinary enquiry has been conducted.

10. In that view of the matter, we are of the view that the learned Single Judge has rightly interfered in the matter and set aside the order of termination.



However, considering the nature of accusations made against him and the fact that the operative portion of the acquittal order records that the acquittal was by granting him the benefit of doubt, we are of the view that an opportunity ought to have been given to the State to conduct a disciplinary enquiry into the charges and based upon the outcome of such disciplinary enquiry, take an independent decision with regard to confirmation of the services of the probationer.

11. In view of above, while endorsing the judgment of the learned Single Judge, insofar as the termination order is set aside, we provide that the State shall be at liberty to conduct a disciplinary enquiry into the charges levelled against the respondent-petitioner and based upon the outcome of such enquiry, it shall be open for the competent authority to take a decision with regard to confirmation of the services of the respondent-petitioner. In order to facilitate such course, the respondent-petitioner would be reinstated in service and shall be dealt with in the manner stipulated in para 30 of the judgment of the Supreme Court in *Managing Director, ECIL, Hyderabad & Ors. v. B. Karunakar & Ors; (1993) 4 SCC 727*. The respondent-petitioner undertakes to cooperate in the enquiry, which shall be concluded as far as practicable at the earliest possible, preferably within a period of six months.

12. Appeal stands disposed of accordingly.

13. Pending applications, if any, shall stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

MAY 11, 2026

mohit goyal

Whether speaking/reasoned
Whether reportable

: Yes / No
: Yes / No