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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 02.02.2026

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W.P.(C) 12317/2021

AJAY

.....Petitioner

Through: Ms. Saahila Lamba and Ms. Nidhi
Sharma, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr Ruchir Mishra, Mr Sanjay Kumar
Saxena, Mr Mukesh Kumar Tiwari,
Ms Reba Jena Mishra and Ms
Poonam Shukla, Advocates.**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****V. KAMESWAR RAO, J. (ORAL)**

1. The petitioner has filed this petition with the following prayers:-

*“(i) Issue a writ of certiorari quashing order dated 20.07.2021
issued by the respondents;**(ii) Issue a writ of mandamus directing the respondents to
reinstate the petitioner in service with all consequential
benefits;”*

2. The order dated 20.07.2021 (impugned order) which is under challenge by the petitioner is primarily an order of termination of the petitioner from the service as Constable in Railway Protection Force, who was posted in Lucknow Division at the relevant time. The translated copy of the impugned order reads as under:-



“Letter no.45-E/DAR/HQ/05/21/Lucknow

Dated 20.07.2021

Order

Shri Ajay Putra Shri Bhagwan Constable / R.P.F. is currently posted in Lucknow Division. They are currently in under probation. A complaint against him was received from the Senior Divisional Security Commissioner/ R.P.F./Lucknow, according to which he had raped one of his colleague lady constable/R.P.F..

The undersigned himself spoke to the victim and examined the evidence provided by her. The report sent by the Senior Divisional Security Commissioner / R.P.F. / Lucknow, the written application of the victim and the evidence of WhatsApp provided by her clearly certifies that, constable Ajay S/o Shri Bhagwan raped his colleague lady constable/R.P.F. without her consent.

This act of Shri Ajay S/o Shri Bhagwan, Constable/R.P.F. is not only indecent but also not to be tolerated as a member of R.P.F.. Since the victim and her family due to dignity and social public shame, the police do not want to file a case. Therefore, before the undersigned there are no any legal action is left other than departmental proceedings.

So, while using the powers provided by the Rule 57.3 of R.P.F. Act 1987, I terminate the Probationary Constable Ajay S/o Sri Bhagwan from service. Senior Divisional Security Commissioner / R.P.F. / Lucknow is ordered that, terminate them from the service of R.P.F. with immediate effect by paying an additional salary of 01 month.”

3. The short submission made by Ms Saahila Lamba, is that the impugned order having been passed under Rule 57.3 of the Railway Protection Force Act, 1987 (RPF Act) is punitive in nature in as much as the petitioner being on probation, his services have been terminated on certain alleged misconduct that he has raped is colleague lady Constable without her consent. Ms Lamba has relied upon the decision of this Court in the case of ***Rashi Soni v. Union of India & Others, W.P(C) No.3673/2017.***



4. On the other hand, Mr Ruchir Mishra, learned counsel for the respondents would justify the action against the petitioner on the ground that the allegations made against the petitioner are of a very serious nature and any compassionate view on the same shall affect the morale of the force. He stated that the invocation of Rule 57.3 of the RPF Act is justified in the facts in as much as being on probation, the petitioner has no right to continue on the post.

5. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the impugned order terminating the services of the petitioner issued by the respondents is justified or not. There is no denial to the fact that as a probationer, the petitioner has no right to hold the post and the employer is within its right to terminate the services of an employee by an order simpliciter. But order causing stigma on the character and future prospectus of the petitioner is violative of the Article 311 of the Constitution of India.

6. In the present case, the termination order, which has been reproduced above, clearly demonstrate that the reasons given by the respondents for terminating the services of the petitioner have been spelt out in the termination order itself. If that be so, since the order is passed on certain misconduct, without holding any enquiry in that regard, the termination order cannot be considered as an order simpliciter, but one which cast stigma on the petitioner. This Court in the case of **Rashi Soni (supra)** has held as under:-

“13. It is an admitted fact that no show-cause notice was given to the Petitioner; no documents were provided to her; she was



not allowed to cross-examine the so-called witnesses; rather none of the principle of natural justice was followed before passing the impugned order dated 19th August, 2016. This termination order is casting a serious stigma on the character and future prospects of the Petitioner and is violative of provision of Article 311 of the Constitution of India. The said Article reproduced hereunder:

311. Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State

(1) No person who is a member of a civil service of the Union or an all India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by a authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed: Provided further that this clause shall not apply.

(a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be



final”

14. It is not in doubt that the Respondents have a right to take action against its employees including the Petitioner but for the said purpose compliance of the provisions of Constitution of India, Railway Protection Force Act, 1957 and the Railway Protection Force Rules, 1987 is to be made. In the present case, neither the provision of the Constitution of India, nor the provision of Railway Protection Force Act, 1957 nor the Railway Protection Force Rules, 1987 have been followed.”

7. Accordingly, the impugned order dated 20.07.2021 is set aside and consequently, the petitioner is directed to be reinstated in service within four weeks from today. However, the rights of the respondents to proceed against the petitioner, thereafter, in accordance with law is reserved. The period from the date of termination till the date of reinstatement shall be treated in service, but in the given facts of the case, the petitioner shall be entitled to 50% of the back wages. The amount shall be disbursed to the petitioner within a period of eight weeks from the date of his reinstatement, lest there shall be a simple interest at the rate of 6% per annum for the delayed period.

8. The petition is allowed in the aforesaid terms.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 02, 2026

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