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IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 17 March 2026******Pronounced on: 01 July 2026***

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W.P.(C) 10731/2025

GAURAV KUMAR

.....Petitioner

Through: Mr. Shyam Mehta, Sr. Adv.
with Mr. Mohit Paul, Ms. Rangoli Seth, Ms.
Sanjleena Lal and Mr. Rohit, Adv.

versus

HIGH COURT OF DELHI, THROUGH ITS REGISTRAR
GENERAL & ORS.

.....Respondents

Through: Ms. Beenashaw N. Soni, Adv.
with Ms. Mansi Jain, Adv. for DHC
Mr. Ravi Kant Srivastava, SPC with Mr.
Robert Laishram, Adv. for UOI

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE MR. JUSTICE OM PRAKASH SHUKLA****JUDGMENT**

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01.07.2026**C. HARI SHANKAR, J.**

1. By order dated 3 July 2013, the petitioner was appointed as a Temporary Chauffeur in this Court, with effect from 14 June 2013 till further orders.

2. The petitioner continued on probation, without being confirmed till, on 10 February 2016, the competent Committee of this Court decided to terminate the services of the petitioner under Rule 5 of the



Central Civil Services (Temporary Service) Rules, 1985, on the ground that he had failed to complete his probation period successfully, as there were several complaints against him. Following the recommendation of the Committee, the services of the petitioner was terminated by this Court *vide* Office Order dated 4 March 2016.

3. The petitioner challenged the said decision before this Court by way of WP (C) 2115/2018, which was dismissed by a Division Bench of this Court by judgment dated 13 August 2018. Review Petition 354/2018, seeking review of the decision, was also dismissed on 26 October 2018.

4. The petitioner challenged these decisions before the Supreme Court by way of SLP (C) 1871/2019.

5. By the following order dated 15 February 2022, the Supreme Court disposed of the said SLP:

“Delay condoned.

Leave granted.

The appellants were appointed by the respondent as Temporary Chauffeur(s)/Driver(s). Their probation were not cleared and they were terminated from service on account of their unsatisfactory performance.

Division Bench of the High Court of Delhi vide its impugned order dated 13.08.2018 has confirmed the order of termination of the appellants passed by the concerned Committee of respondent.

Being aggrieved by the said impugned order passed by the Division Bench of the High Court of Delhi, the appellants filed Review Petition(s) but failed.



Now the appellants are before this Court impugning the order dated 13.08.2018 confirming the termination order as well as the Order dated 26.10.2018 passed in the Review Petition(s) confirming the order dated 13.08.2018.

In compliance of this Court's order dated 07.01.2022, the appellants have filed an undertaking before this court stating that they will perform their duties diligently with the respondent henceforth and shall not give any reason for any complaint in performing their duties in the future with the respondent.

Having regard to the facts and circumstances of the cases and more particularly having regard to the Undertaking filed before this Court by the appellants, we are of the view that one more opportunity should be granted to the appellants to improve their performance in duties. Hence the impugned order(s) are set aside.

The respondent is directed to continue the services of the appellants initially on a probation for a period of two years from the date of re-joining on duties with the respondent.

The Appeals are disposed of accordingly.”

6. The petitioner was, accordingly, allowed to rejoin as Chauffeur *vide* Memorandum dated 14 March 2022 issued by this Court, with effect from the date of his joining. As directed by the Supreme Court, the Memorandum stated that the petitioner would initially be on probation for a period of two years with effect from the date of rejoining service.

7. Consequent on the petitioner's rejoining service, the following Office Order came to be issued by this Court on 31 March 2022:

“No.: 412/E-9/Estt.-I/DHC
Date: 31.03.2022

OFFICE ORDER

Pursuant to Orders dated 15.02.2022 passed by Hon'ble Supreme of India in Civil Appeal No (S) 1341-1342 of 2022 arising out of



SLP (C) Nos. 2496-2497 of 2022 and Civil Appeal No(S) 1343-1344 of 2022 arising out of SLP(C) Nos. 6571-6572/2019 titled as "**Gaurav Kumar v. High Court of Delhi**" and "**Gopal Singh v. High Court of Delhi**", respectively, the Competent Authority has been pleased to allow, the below mentioned officials, to re-join their duties as Chauffeur on the establishment of this Court:-

S.No	Name of the Candidate	Post to which appointed	Remarks
1.	Mr. Gopal Singh S/o Late Sh. Sita Ram	Temporary Chauffeur in the Level 5 of Pay Matrix (as per 7 th Pay Commission)	Rejoined as Chauffeur w.e.f. 14.03.2022 (AN) till further orders against one of the existing posts of Chauffeur.
2.	Mr. Gaurav Kumar S/o Sh. Manoj Kumar	Temporary Chauffeur in the Level 5 of Pay Matrix (as per 7 th Pay Commission)	Rejoined as Chauffeur w.e.f. 21.03.2022 (FN) till further orders against one of the existing posts of Chauffeur.

Note: (1) The above officials shall be on probation initially for a period of two years from the date of their re-joining in this Court, with a stipulation that expiry of the period of probation shall not result in their automatic confirmation.

(2) Their work and conduct shall be closely watched and reported regularly.

Sd/-
(Kishor Kumar)
Joint Registrar (Estt-I).
Date: 31.03.2022

Endst. No.: 5105-5114/Estt-I/E-9/DHC”

8. On 30 August 2022, the petitioner represented to this Court, requesting that his service as Chauffeur be treated as continuous with effect from the date of his initial appointment in 2013. The said representation was rejected by this Court, and the decision communicated to the petitioner on 11 January 2023.



9. The petitioner, thereafter, moved MA 1401-1402/2023 in SLP (C) D 1871/2019, praying for a direction to this Court to treat the petitioner as continuing in service as Chauffeur with effect from the date of his initial appointment in 2013.

10. By the following order dated 10 July 2023, the Supreme Court allowed the petitioner to withdraw the said MAs:

- “1. Learned counsel for the Appellant seeks permission to withdraw these miscellaneous applications.
2. Permission is granted.
3. Hence, these miscellaneous applications are dismissed as withdrawn.”

11. The petitioner has now petitioned this Court by means of the present writ petition, praying for the very same relief as was sought in MA 1401-1402/2023 before the Supreme Court, i.e., that his service as Chauffeur be treated as continuous with effect from 14 June 2013, with all consequential benefits, including salary, emoluments, arrears, seniority and promotion. The prayer clause in the writ petition reads thus:

“It is, therefore, most humbly and respectfully prayed that this Hon’ble Court may kindly be pleased to:

- (a) Issue a writ of mandamus or any other appropriate writ, order or direction compelling the Respondents to include the period of duty from 14.06.2013 to 04.03.2016 as part of Petitioner’s service and pay the Petitioner, salary, emoluments, benefits including arrears, and consider his seniority, promotions etc. on that basis;



- (b) Issue a writ of certiorari or an appropriate writ, order or direction quashing and setting aside the order/decision recorded in the Minutes of Meeting dated 14.12.2022 of the 'Committee for Appointment of Officials of High Court', High Court of Delhi at New Delhi;
- (c) by an appropriate writ, order or direction as an interim measure direct the Respondents to count the past service of the Petitioner during pendency of the present petition;
- (d) grant any other relief in addition to or incidental to the reliefs prayed for hereinabove;
- (e) pass any other order which this Hon'ble Court may deem fit and proper in the fact situation of the case at hand; and
- (f) allow the present petition, in the interest of justice."

12. Counter-affidavit and rejoinder have been filed.

13. We have heard Mr. Mohit Paul for the petitioner and Ms. Beenashaw N. Soni for the High Court, at length. Written submissions have also been filed by Mr. Paul.

14. Mr. Paul submits that the use of the word "continue" by the Supreme Court in its order dated 15 February 2022 leaves no manner of doubt that the petitioner is entitled to continuity of service from the date of his initial joining in 2013. The Supreme Court, he submits, has not wiped out the earlier service rendered by the petitioner. Nor is there any direction, by the Supreme Court, to the effect that the petitioner's appointment, consequent to the order of the Supreme Court, would be treated as a fresh appointment. The setting aside of the judgment of this Court, whereby the petitioner's termination was upheld, had necessarily resulted in restoration of the *status quo*, and



reinstatement of the petitioner from the date when he was terminated with continuity of service as a consequence. The direction to place the petitioner on probation for a period of two years, submits Mr. Paul, cannot be interpreted as meaning that the petitioner's service would start afresh. The direction for keeping the petitioner on probation was only to assess suitability, and did not eviscerate the petitioner's past service. Mr. Paul submits that, by treating the petitioner's appointment as a fresh appointment, this Court has rewritten the order of the Supreme Court.

15. The simpliciter withdrawal, by the petitioner, of MA 1401-1402/2023, submits Mr. Paul, cannot be regarded as a bar to grant of relief to the petitioner in these proceedings.

16. Mr. Paul reiterates that the interpretation placed by this Court on the order dated 15 February 2022 passed by the Supreme Court would result in wiping out the words "continue the services", as employed by the Supreme Court.

17. Ms. Soni submits that, in the absence of any direction, from the Supreme Court, to the effect that the petitioner would be entitled to continuity of service, no fault can be found with the High Court in rejecting the petitioner's request to that effect. She submits, further, that, having moved the Supreme Court by way of MA 1401-1402/2023, seeking the same relief, and having withdrawn the MA unconditionally, the petitioner cannot re-agitate the issue before this Court.



18. Having heard learned Counsel, we are of the opinion that the petition is entitled to succeed, but only in part.

19. We may state, at the outset, that the unconditional withdrawal of MA 1401-1402/2023, from the Supreme Court, cannot, to our mind, operate as a fetter to the present writ petition. The petitioner's right to ventilate his grievance on merits has not been foreclosed by the Supreme Court. Withdrawal of a Miscellaneous Application, which sought additional directions in an SLP which already stood disposed of cannot, to our mind, bar the petitioner from moving a substantive petition seeking the said relief.

20. We also note that the petitioner has been forthright in disclosing the fact that, for the relief sought in this writ petition, the petitioner had initially moved MA 1401-1402/2023 before the Supreme Court, and had withdrawn the MAs. The petitioner has been candid in placing, before this Court, the order passed by the Supreme Court on 10 July 2023, allowing the petitioner to withdraw the MAs.

21. We, therefore, are not in agreement with Ms. Soni in her submission that the petitioner ought not to be allowed to agitate the present writ petition, having withdrawn MA 1401-1402/2023 unconditionally from the Supreme Court.

22. We hold that the writ petition is entitled to succeed in part, in that the petitioner's prayer for being granted salary, arrears, emoluments and promotions, during the period between his termination and rejoining, cannot be allowed. Arrears of salary are not



an inevitable or inexorable consequence to an order of reinstatement in service, consequent on setting aside termination.¹ We cannot, therefore, direct the High Court to grant arrears of salary to the petitioner for the period after his termination on 4 March 2016 till his reinstatement on 14 March 2022. Any such relief could have been granted only by the Supreme Court and, as the Supreme Court has not chosen to do so, we cannot allow the prayer.

23. Besides, a reading of the order dated 15 February 2022 of the Supreme Court reveals that the Supreme Court has not held, either expressly or by necessary implication, that the termination of the petitioner's services on 4 March 2016 was illegal. Mr. Paul's contention that the setting aside of the judgment dated 13 August 2018, passed by this Court, whereby WP (C) 2115/2018 was dismissed, results, *ipso facto*, in restoring the *status quo ante* and amounts to a declaration that the petitioner's termination was unjustified, cannot be accepted. In fact, a reading of the order dated 15 February 2022 passed by the Supreme Court indicates to the contrary. The order has obviously been passed *ex debito justitiae*, and not by way of setting aside, on merits, of the order dated 13 August 2018 passed by this Court. This is clear from the use of the word "hence" in the judgment of the Supreme Court. Having recorded the undertaking submitted by the petitioner in terms of the earlier order dated 7 January 2022 of the Supreme Court, that he would perform his duties diligently thereafter and not for any reason for complaint, the Supreme Court has observed that "*hence*", the order dated 13 August 2018 of this Court was set aside. Clearly, the Supreme Court has been

¹ U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey, (2006) 1 SCC 479



magnanimous and granted one more opportunity to the petitioner to improve his performance.

24. The order is *ex facie* incompatible with a direction to grant arrears of salary or promotion, to the petitioner, during the period between his termination and his reinstatement.

25. At the same time, we cannot ignore the use of the words “*continue the services* of the appellants”, employed by the Supreme Court in the penultimate paragraph of its order dated 15 February 2022. The words “continue the services” admit of only one interpretation, which is the interpretation which Mr. Paul advances. *Continuity of service has, therefore, been expressly directed by the Supreme Court.* If the High Court had any doubt in that regard, it was for the High Court to approach the Supreme Court and seek a clarification. It has not done so.

26. The order dated 15 February 2022, of the Supreme Court has, therefore, to be read as it stands. As it stands, the order grants, to the petitioner – and other appellants before the Supreme Court – *continuity of service.*

27. Continuity of service would, however, only imply that the probation period of the petitioner would be deemed to continue till the expiry of two years from the date of the petitioner’s rejoining, consequent to the order passed by the Supreme Court. This would not, however, entitle the petitioner to arrears of salary or any other benefits



or to emoluments for the period when the petitioner remained out of service.

28. Insofar as pay fixation is concerned, two Division Benches of this Court, in *Mahabir Prasad v. Delhi Transport Corporation*² and *Jagdish Chander v. Delhi Transport Corporation*³, have held that a direction for reinstatement with continuity in service would entitle the employee to have his pay fixed, on his reinstatement, as though he had continued in service during the period following his termination, which would include grant of notional increments and the like, but would not entitle him to any arrears of salary on that count. In the case of the petitioner, therefore, he would be entitled to have his pay refixed, treating him as having continued in service with effect from 14 June 2013. In case there are other chauffeurs who had been selected with the petitioner and had joined from the same date, the petitioner would be entitled to have his pay fixed to be at par with them.

29. Needless to say, there is no question of the petitioner being entitled to any promotion during the period when he joined on 14 June 2013 till the completion of his probation two years from the date of his rejoining after the order passed by the Supreme Court.

30. Insofar as seniority is concerned, no cause of action in that regard has arisen till date. We do not wish to return an opinion on whether the petitioner would be entitled to count the period of his

² 212 (2014) DLT 503 (DB)

³ 2020 LLR 754



probation, from 14 June 2013, for the purposes of seniority. We leave that issue open, to be adjudicated as and when occasion may arise, if it does.

31. We, therefore, dispose of this writ petition in the following terms:

(i) The petitioner's prayer for continuity of his service as Chauffeur succeeds. In other words, the petitioner would be deemed to have joined as chauffeur on 14 June 2013 but would be treated as having continued on probation till the expiry of two years from 14 March 2022, when the petitioner rejoined service as Chauffeur pursuant to the order dated 15 February 2022 of the Supreme Court.

(ii) The petitioner would be entitled to have his pay, consequent on his rejoining duty as Chauffeur with this Court with effect from 14 March 2022, refixed treating him as having remained on probation after 4 March 2013 till the expiry of two years after 14 March 2022. Any arrears of salary to which the petitioner would become entitled as a consequence, would be disbursed to the petitioner within a period of eight weeks from uploading of this judgment on the website of this Court.

(iii) The petitioner would not, however, be entitled to any arrears of salary for the period between his termination from service on 4 March 2016 and his rejoining service on 14 March 2022.



(iv) The prayers for grant of promotions can obviously not be granted, as the petitioner continued to remain on probation.

(v) We have not expressed any opinion on the prayer for grant of seniority, leaving that issue to be decided as and when occasion may arise to do so.

32. The writ petition stands accordingly allowed in part, with no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

JULY 01, 2026/aky/yg