



2025:DHC:10824-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 15.10.2025

Pronounced on: 04.12.2025

+ **W.P.(C) 15921/2025 & CM APPL. 65104/2025**

**GOVT OF NCT OF DELHI THROUGH DIRECTOR OF
EDUCATION**

.....Petitioner

Through: Mr. Yeeshu Jain, ASC with
Ms.Jyoti Tyagi, Mr. Bhuwan
Raj Seth, Ms. Vishruti Pandey
and Ms.Arпита Goyal, Advs.

versus

SURYA PRAKASH MISHRA

.....Respondent

Through: Ms. Sriparna Chatterjee,
Mr.Samarth Luthra,
Mr.Soumitra Chatterjee,
Mr.Himank Pal and Mr.
Manish, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. The present writ petition has been filed, challenging the Order dated 15.10.2024, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in O.A. No. 1243/2024, titled *Surya Prakash Mishra v. Government of NCT of Delhi & Ors.*, whereby the learned Tribunal allowed the O.A. filed by the respondent herein and issued the following directions:



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“18. In view of the above, the present OA is partly allowed with following directions:-

(i) The impugned order dated 4.3.2024 (Annexure A-I) is quashed and set aside. The respondents are directed to reinstate the applicant in services forthwith with all consequential benefits in accordance with the rules and instructions on the subject.

(ii) The aforesaid directions shall be complied with by the respondents as expeditiously as possible preferably within 8 weeks from the date of receipt of a certified copy of this order.

(iii) However, the respondents shall be at liberty to initiate the disciplinary action against the applicant, if so advised, but in conformity with principles of natural justice and the rules and instructions on the subject.

(iv) No order as to the costs. Pending MAs, if any, stand closed.”

BRIEF FACTS:

2. The brief facts necessary for adjudication of the present petition are that pursuant to Advertisement No. 07/2021 dated 24.04.2021 issued by the Union Public Service Commission (hereinafter referred to as “UPSC”) inviting applications for recruitment to various post, including the post of Principal under the Directorate of Education, Government of NCT of Delhi, the respondent herein had applied under the Economically Weaker Section (EWS) category. The written examination was conducted on 17.07.2022, followed by an interview on 15.02.2023. Based on the final result declared on 22.03.2023, the respondent was declared successful and recommended for appointment.

3. On the basis of the recommendation made by the UPSC, an



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offer of appointment was issued to the respondent *vide* O.M. dated 19.04.2023, which expressly stated that the appointment was provisional and subject to verification of the Educational Qualification Documents and Experience Certificates through the proper channel. It was also stipulated that if the verification revealed that any document was false, the services of the candidate would be terminated forthwith without assigning further reasons and without prejudice to any criminal action that may be taken under the provisions of the Indian Penal Code, 1860, for the production of false certificates/documents.

4. The respondent accepted the offer on 20.04.2023, and *vide* Order dated 26.06.2023, the petitioner issued the joining letter to the respondent, pursuant to which he joined the post on 28.06.2023. Thereafter, he was provisionally posted as Principal at Government Boys Senior Secondary School, Shalimar Bagh Village (in short “GBSSS”) on 30.06.2023.

5. As part of the verification process, a letter dated 15.09.2023 was issued by the petitioners to the Principal of D.A.V. Public School, TTPP, Tanda, Ambedkar Nagar, Uttar Pradesh (hereinafter referred to as “D.A.V. School”), seeking confirmation regarding the authenticity of the Experience Certificate No. DAV PS/Tanda/2020-21/54 dated 12.05.2021 submitted by the respondent.

6. The D.A.V. School, in its reply dated 19.09.2023 to the aforesaid letter issued by the petitioners, categorically informed that the said Experience Certificate of the respondent had not been issued by their School.

7. Based on the above reply, the Department concluded that the



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respondent had furnished a fabricated Experience Certificate at the time of his recruitment. A communication dated 26.09.2023 was accordingly sent to the Deputy Commissioner of Police for registration of an FIR against the respondent for submitting a fabricated Experience Certificate/document.

8. Considering that the respondent was still serving on probation and governed by the Central Civil Services (Temporary Service) Rules, 1965 (hereinafter referred to as “Rules”), the matter was placed before the competent authority. Upon due consideration, and with the approval of the Hon’ble Lieutenant Governor of Delhi, the termination notice dated 04.03.2024 was issued to the respondent under Rule 5(1) of the Rules, terminating his services with effect from the expiry of one month from the date of service of the said notice. The said notice was served upon the respondent on 05.03.2024.

9. The said termination notice was challenged by the respondent herein before the learned Tribunal, by way of the aforesaid O.A., wherein the learned Tribunal, *vide* its Impugned Order, set aside the termination notice, holding therein that the said notice was punitive and stigmatic in nature and directed reinstatement of the respondent with all consequential benefits.

10. Aggrieved thereby, the petitioner has filed the present petition challenging the Impugned Order passed by the learned Tribunal.

SUBMISSIONS ON BEHALF OF PETITIONER:

11. The learned counsel for the petitioner submitted that the Impugned Order passed by the learned Tribunal is unsustainable in law as well as on the facts. It was contended that the learned Tribunal



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has proceeded on conjectures and surmises, without appreciating that the termination of the services of the respondent was a simpliciter order passed during the probation period, strictly in accordance with Rule 5(1) of the Rules.

12. The learned counsel for the petitioner submitted that the learned Tribunal erred in holding that the termination notice dated 04.03.2024 was punitive and stigmatic in nature. The said notice does not contain any allegation or finding of misconduct against the respondent, and no Departmental Inquiry was conducted, nor was any conclusion drawn regarding the culpability of the respondent. Therefore, the action taken against the respondent was purely administrative, based on the fact that the aforesaid Experience Certificate furnished by the respondent was found to be not genuine.

13. The learned counsel for the petitioner submitted that the Experience Certificate dated 12.05.2021, purportedly issued by D.A.V. School, was verified by the competent authority, and the Principal of D.A.V. School categorically denied its issuance *vide* communication dated 19.09.2023. Upon receipt of this verification, the case of the respondent was placed before the competent authority, which approved the termination of his services under Rule 5(1) of the Rules. Therefore, the aforesaid termination notice issued against the respondent is neither punitive nor stigmatic in nature.

14. The learned counsel further submitted that the learned Tribunal has failed to appreciate that any appointment obtained through fraudulent means, by submitting false or fabricated documents, is *void ab initio*. He placed reliance on the Judgments of the Supreme Court



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in *Union of India v. M. Bhaskaran*, 1995 Supp (4) SCC 100, and *Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav*, (2003) 3 SCC 437, wherein the Supreme Court held that the appointments secured by fraud or by giving false information cannot be sustained in law.

15. The learned counsel for the petitioner submitted that the learned Tribunal erred in relying upon the decision of this Court in *GNCTD & Ors. v. Satyender* (Order dated 05.03.2024 in W.P.(C) No. 12635/2023) which dealt with the termination of a probationer on grounds of alleged misconduct. He submits that the said decision is inapplicable in the present case, as the present case pertains to fraudulent entry into service through submission of a fake or fabricated Experience Certificate, and not to any post-appointment misconduct. It is settled law that *fraus omnia vitiare*, that is, fraud vitiates everything, and no legal right can arise from a fraudulent act.

16. The learned counsel for the petitioner further contended that holding of an inquiry is not mandatory under Rule 5(1) of the Rules. A temporary employee or probationer may be discharged at any time without assigning reasons if found unsuitable for service. Reliance was placed on the Judgment of the Supreme Court in *Radhey Shyam Gupta v. U.P. State Agro Industries Corporation Ltd.*, (1999) 2 SCC 21, wherein the Supreme Court drew a distinction between ‘motive’ and ‘foundation’ of an order of termination, holding that if allegations or a preliminary fact-finding only prompts the employer to assess general suitability, they are merely motive, but if a detailed inquiry reaches clear conclusions of guilt and the termination follows on that basis, those findings form the foundation. Consequently, an employer



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may terminate the services of the probationer simpliciter without holding a formal departmental inquiry where the employer merely chooses not to continue the services of the employee on grounds like general unsuitability or unsatisfactory performance.

17. The learned counsel for the petitioner further placed reliance on the Judgment of the Supreme Court in *Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences & Anr.*, (2002) 1 SCC 520, wherein the Supreme Court held that the test for determining whether a termination order is punitive, depends on whether it casts any stigma. If the order is free from stigma, it remains a termination simpliciter, not attracting the protection of Article 311 of the Constitution. The Court further held that the termination of a probationer on the ground that his “work and conduct have not been found to be satisfactory” is not punitive and does not amount to a stigmatic order, requiring a full-fledged departmental enquiry under Article 311.

SUBMISSION ON BEHALF OF THE RESPONDENT:

18. The learned counsel for the respondent argued that the aforesaid termination notice had been passed without affording the respondent any opportunity to defend himself. The respondent had neither been provided with a copy of the complaint received against him nor with any material or report forming the basis of the decision. It was submitted that the termination had been preceded by a verification and inquiry into the authenticity of the Experience Certificate, and findings had been arrived at behind the back of the respondent, thereby vitiating the entire process.



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19. The learned counsel further submitted that the termination notice was stigmatic in nature, as it was founded upon allegations of submission of fake or fabricated documents. Once the termination was based upon such allegations, it could not be treated as a termination simpliciter; the same partook the character of a punitive action and, therefore, attracted the protection under Article 311(2) of the Constitution of India, mandating a reasonable opportunity of hearing.

20. The learned counsel for the respondent further submitted that the action of the petitioner in terminating the services of the respondent without holding any disciplinary inquiry was violative of settled law. The respondent had placed reliance upon the Judgment of the Supreme Court in *Ratnesh Kumar Chaudhary v. Indira Gandhi Institute of Medical Sciences*, (2015) 9 SCC 345, wherein it had been held that where the termination of a probationer is founded upon allegations of misconduct, fraud or falsification of documents, such termination, even if styled as one under Rule 5(1) of the Rules, is punitive in nature and liable to be set aside for want of inquiry. The Court further held that such a punitive termination is vitiated if passed without a regular inquiry affording the employee due opportunity, and is liable to be set aside for non-compliance with principles of natural justice.

FINDINGS AND ANALYSIS:

21. We have heard the learned counsels for both the parties and perused the record.

22. The essential issue that arises for consideration is whether the termination of the services of the respondent, purportedly made under



Rule 5(1) of the Rules, was a simpliciter discharge during the probation period, or whether it was, in fact, founded upon allegations of misconduct amounting to a stigmatic and punitive action. The said Rule is reproduced as under:

“5. Termination of the 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 and on such termination, the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at 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, acknowledgement due at the address of the Government servant available with the appointing authority.

(iii) If the notice sent by registered post is returned unserved 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.”



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23. It is not in dispute that the respondent had been appointed provisionally to the post of Principal pursuant to the recommendation of the UPSC, subject to verification of his documents and antecedents. The offer of appointment itself stipulated that the appointment to the said post was provisional and could be terminated if any document was found to be false. During the course of such verification, the Experience Certificate furnished by the respondent was found not to have been issued by the D.A.V. School. On this basis, the petitioner proceeded to terminate his services by issuing a termination notice dated 04.03.2024 under Rule 5(1) of the Rules. The said termination notice is reproduced as under:

“...And Whereas, the experience certificated no. DAV PS/Tanda/2020-21/54 dated 12.05.2021 was also forwarded to the Principal, DAV Public School, TTPP, ASOPUR, TANDA, Ambedkar Nagar, U.P., for verification.

And Whereas, teams were constituted and deputed to visit the office of certificate issuing authorities to enquire into the matter.

*And Whereas, Principal D.A.V Public School, TPP, Tanda, Ambedkar Nagar (U.P) handed over the report dated 19.09.2023 of physical verification in r/o Sh Surya Prakash Mishra S/o Sh. Avdesh Narayan Mishra in a sealed envelope addressed to Addl. D.E(Admin) marked as confidential. The sealed cover was opened by the Director (Education) wherein the Principal D.A.V Public School, TPP, Tanda, Ambedkar Nagar (U.P.) has clearly mentioned that **“The experience certificate attached with your above referred letter is not issued by the office of undersigned”**.*

And Whereas since, Sh. Surya Prakash Mishra joined DoE on 28.06.2023, joined Govt. Boys Sr. Secondary School (ID:1309273), Shalimar Village, Delhi on 30.06.2023, has not completed one year probation period, therefore, his service is regulated



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by the Central Civil Services (Temporary Service) Rules, 1965.

Now, therefore, in pursuance of the proviso to sub-rule (1) of rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, this notice of termination of service is hereby issued to Sh. Surya Prakash Mishra, Principal (Emp ID:20233039). Hence, his services shall stand terminated with effect from the date of expiry of a period of one month from the date on which the notice is served upon him."

24. A bare reading of the above-quoted termination notice shows that the contention of the petitioner that the termination of the respondent was merely administrative in nature and free from stigma, cannot be accepted. The said notice reveals that the termination followed a verification exercise, which concluded that the Experience Certificate submitted by the respondent was fake or fabricated. The finding regarding falsification of documents was thus a foundation for the action taken, and not merely a motive. It is trite law that when a notice of termination is founded upon an allegation of misconduct or fraud, the same cannot be treated as a termination simpliciter, irrespective of the language employed in the order.

25. The Supreme Court in ***Ratnesh Kumar Chaudhary*** (supra) has held that if a termination order, though styled as a discharge under Rule 5(1) of the Rules, is preceded by an inquiry or verification culminating in a finding of misconduct or moral turpitude, such an order becomes punitive and attracts the safeguards of Article 311(2) of the Constitution of India. We quote from the judgment as under as



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“27. In the case at hand, it is clear as crystal that on the basis of a complaint made by a Member of the Legislative Assembly, an enquiry was directed to be held. It has been innocuously stated that the complaint was relating to illegal selection on the ground that the appellant did not possess the requisite qualification and was appointed to the post of Chest Therapist. The report that was submitted by the Cabinet (Vigilance) Department eloquently states about the conduct and character of the appellant. The stand taken in the counter-affidavit indicates about the behaviour of the appellant. It is also noticeable that the authorities after issuing the notice to show cause and obtaining a reply from the delinquent employee did not supply the documents. Be that as it may, no regular enquiry was held and he was visited with the punishment of dismissal. It is well settled in law, if an ex parte enquiry is held behind the back of the delinquent employee and there are stigmatic remarks that would constitute foundation and not the motive. Therefore, when the enquiry commenced and thereafter without framing of charges or without holding an enquiry the delinquent employee was dismissed, definitely, there is clear violation of principles of natural justice. It cannot be equated with a situation of dropping of the disciplinary proceedings and passing an order of termination simpliciter. In that event it would have been motive and could not have travelled to the realm of the foundation. We may hasten to add that had the appellant would have been visited with minor punishment, the matter possibly would have been totally different. That is not the case. It is also not the case that he was terminated solely on the ground of earlier punishment. In fact, he continued in service thereafter. As the report would reflect that there are many an allegation subsequent to the imposition of punishment relating to his conduct, misbehaviour and disobedience. The Vigilance Department, in fact, had conducted an enquiry behind the back of the appellant. The stigma has been cast in view of the report received by the Central Vigilance Commission which was ex parte and when that was put to the delinquent employee, holding of a regular enquiry was imperative. It was not an enquiry only to find out that he did not possess the requisite



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qualification. Had that been so, the matter would have been altogether different. The allegations in the report of the Vigilance Department pertain to his misbehaviour, conduct and his dealing with the officers and the same also gets accentuated by the stand taken in the counter-affidavit. Thus, by no stretch of imagination can it be accepted that it is termination simpliciter. The Division Bench has expressed the view that no departmental enquiry was required to be held as it was only an enquiry to find out the necessary qualification for the post of Chest Therapist. Had the factual score been so, the said analysis would have been treated as correct, but unfortunately the exposition of factual matrix is absolutely different. Under such circumstances, it is extremely difficult to concur with the view expressed by the Division Bench.”
(emphasis supplied)

26. The respondent, in the present case, was neither issued a show-cause notice nor afforded any opportunity to explain or rebut the findings drawn from the verification report received from the D.A.V School. The entire process was concluded behind his back, rendering the action violative of the principles of natural justice.

27. The reliance placed by the petitioner on the Judgment of the Supreme Court in *Radhey Shyam Gupta* (supra) and *Pavanendra Narayan Verma* (supra) is misplaced. Those cases pertained to situations where the termination of a probationer was not preceded by any inquiry or finding of misconduct and was based purely on an assessment of unsuitability. In the present case, however, the employer has gone beyond mere dissatisfaction with performance, and has acted upon a specific finding that the respondent had submitted a fake or fabricated Experience Certificate/document, an allegation which, by its very nature, carries stigma and the verification report and



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its finding are the foundation of the termination order and not merely the motive.

28. The reliance of the petitioner on the principle that fraud vitiates everything is equally unavailing. While no one disputes that an appointment obtained through fraud cannot be sustained, the finding of fraud must be established in accordance with the law, and a candidate cannot be condemned unheard. Before taking such a drastic step, the employer was required to issue a notice to the respondent, put the allegations to him, and consider his response. In the absence of such compliance, the action becomes procedurally unsound, however grave the charge may appear.

29. Further, the mere recourse to Rule 5(1) of the Rules does not exempt the authorities from adhering to the constitutional mandate of fairness. The rule enables the employer to terminate the services of a temporary employee or probationer without assigning reasons, but only where the termination is not punitive. Once the order is based on allegations which are ex facie stigmatic, the protection of Article 311(2) stands attracted, and the order must necessarily fail for want of procedural compliance.

30. The learned Tribunal, in our considered view, has correctly appreciated this distinction and applied the settled law to the facts of the present case. This case is an obvious case where the verification report and its findings are the 'foundation' of the termination order and not merely the 'motive'. The learned Tribunal rightly held that the termination notice was founded upon an allegation of submission of a false experience certificate, and therefore, it is stigmatic and punitive



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in nature. The direction issued by the learned Tribunal for reinstatement, while preserving the liberty of the petitioners to initiate Disciplinary Proceedings in accordance with law, is balanced and in consonance with judicial precedents.

31. In view of the above discussion, this Court finds no infirmity in the reasoning or conclusions arrived at by the learned Tribunal. The Impugned Order warrants no interference under Article 226 of the Constitution of India.

32. Accordingly, the writ petition is dismissed, and the Impugned Order passed by the learned Tribunal is upheld. The petitioner shall comply with the directions of the learned Tribunal within a period of four weeks from today.

33. The petition, along with the pending applications, is disposed of in the above terms. This shall however, not prohibit the petitioner from initiating action against the respondent, if so advised, in accordance with law.

34. There shall be no order as to costs.

MADHU JAIN, J.

NAVIN CHAWLA, J.

DECEMBER 04, 2025/P/hs