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MP-3280-2025

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&amp;

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 23<sup>rd</sup> OF FEBRUARY, 2026MISC. PETITION No. 3280 of 2025*DEV PRAKASH DUBEY**Versus**DIRECTOR GENERAL AND OTHERS*

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Appearance:

Shri Vijay Kumar Tripathi - Advocate for petitioner.

Shri Sanjay Kumar Patel - Advocate for Union of India.

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ORDER

*Per. Justice Pradeep Mittal*

The petitioner has filed the present Miscellaneous Petition assailing the order dated 20.03.2025 passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur, whereby Original Application No. 167/2013 has been dismissed and the termination order dated 26.08.2011 passed by the respondent-authority has been upheld.

2. Petitioner's case in short is that the petitioner was appointed as a Watchman in the respondent department vide order dated 21.07.2008 and joined duties on 29.08.2008 and vide order dated 26.08.2009 probation period was extended for one year thereafter further probation period of six months extended vide order dated 04.11.2010. Despite satisfactory performance and absence of adverse remarks, the repeated extensions were



allegedly made with malafide intent. The extension of probation beyond the permissible period is contrary to Para 27 of the DoP&T Office Memorandum dated 24.11.2022. During the course of employment, respondent No. 3 allegedly demanded illegal favour from the petitioner, which, upon refusal, led to lodging of false complaints against him, allegedly with the support of certain co-employees. Complaints made by the petitioner to respondent No. 2 in this regard invoked no action, and the petitioner was instead subjected to victimisation. Ultimately, the services of the petitioner were terminated vide order dated 26.08.2011 by invoking Conditions Nos. 2 and 3 of the appointment letter conditions, without assigning any reasons and that the termination, being founded on allegations, is punitive in nature.

3. According to the petitioner he preferred a statutory appeal against the termination on 05.09.2011, followed by a reminder dated 08.02.2012, however, no decision was taken. Thereafter, the petitioner approached the Central Administrative Tribunal by filing Original Application No. 167/2013, which, after hearing, was dismissed vide impugned order dated 20.03.2025 without consideration of the judicial precedents relied upon by the petitioner.

4. Learned counsel for the petitioner submits that the probation period of the petitioner was initially extended for one year vide order dated 26.08.2009, passed merely two days prior to the expiry of the original probation period, and that such extension was actuated by malafide intention, as the petitioner had refused to participate in the illegal activities allegedly demanded by respondent No. 3 and certain co-employees.



5. It is further contended that after completion of the extended one-year probation period, the probation was again extended for a further period of six months, which is wholly without authority of law and beyond the permissible limit. Learned counsel submits that upon completion of the extended probation period, the petitioner had attained the status of a confirmed employee and, therefore, his services could not have been terminated by invoking Conditions Nos. 2 and 3 of the appointment letter.

6. Learned counsel further argues that the termination order dated 26.08.2011 is not termination simpliciter, but is stigmatic and punitive in nature, being founded upon alleged misconduct. In such circumstances, the respondents were duty bound to conduct a departmental enquiry before passing any adverse order, which was admittedly not done.

7. It is also submitted that the termination order was issued with malafide intent solely to victimize the petitioner for not yielding to the illegal demands of respondent No. 3. The learned Tribunal, however, failed to consider the aspect of malafides and the surrounding circumstances leading to the termination.

8. Learned counsel further submits that the petitioner had preferred a statutory appeal against the termination order, which has remained undecided till date. Reliance is placed the judgment of the Hon'ble Supreme Court reported in (1986) 3 SCC 103, wherein it has been held that the appellate authority is duty bound to decide the appeal within a reasonable time.

9. It is contended that the action of the respondents is arbitrary, unjust and violative of Articles 14 and 21 of the Constitution of India, as the principles



of natural justice were grossly violated before issuing the termination order. The learned Tribunal failed to appreciate that the impugned action amounts to a colorable exercise of power.

10. Learned counsel lastly submits that the findings recorded by the learned Tribunal are perverse, contrary to the material available on record, and that the Tribunal has ignored the pleadings and grounds raised by the petitioner in the Original Application, rendering the impugned order unsustainable in law.

*We have heard learned counsel for the parties and perused the record.*

11. Vide order dated 26.08.2011, the services of the petitioner were terminated invoking the condition No.2 & 3 of appointment order of the petitioner dated 21.07.2008 which reads as under:

*2. He must produce a Medical Certificate of a Medical Officer not below the rank of Civil Surgeon and produce certificate from the Superintendent of Police to the effect that there is no case pending/contemplated against him without prejudice to the further verification of antecedents through normal channels. In the event of any vigilance/criminal/court proceeding if revealed to be pending against him, his services will be terminated forthwith, without any notice.*

*3. The appointee will be on probation for a period of one year from the date of joining duty. The probation can be extended at the discretion of competent authority. During the probation period, the services of the employee can be terminated at any time without giving any notice and without assigning any reason.*

12. It is revealed from the documents that an offence was registered against



the petitioner at Police Station Ranjhi, and a challan was filed before the Judicial Magistrate First Class, which was later closed on the basis of compromise. After the appointment of the petitioner, his verification report was called for from Police Station Ranjhi, and it came to knowledge that an offence had been registered against him and that these facts were suppressed by the petitioner in the application form.

13. The petitioner was negligent in the performance of his duties. His behavior with co-workers was also not proper, and several complaints were made against him regarding his improper and indecent conduct, for which he was given a warning to improve his work and behavior vide memo dated 28.05.2010 (Annexure R-2). While in service, he was not supposed to purchase immovable property without the sanction of the Competent Authority, however, he purchased immovable property, for which an explanation was sought from him vide letter dated 19.10.2010 (Annexure R-3). He admitted his mistake in his reply dated 25.10.2010 (Annexure R-4). At the time of appointment, the applicant submitted an affidavit stating that no criminal case had been registered against him, nor had any criminal case ever been tried against him in any court.

14. The petitioner has filed an affidavit stating that no criminal case was registered against him till now, nor was any case pending before the court. After calling for the verification report, it was found that Crime No. 234/99 under Section 324/34 had been registered at Police Station Ranjhi, and a challan was also filed in court in Case No. 1760/99, which was disposed of on 16.07.2002 in compromise. The petitioner has a criminal record, and he



was given warning to a co-employee to harm his body after completion of the probation period. He was negligent in the performance of duty and threatening to his senior. On the above ground, he was not fit for service, and before completion of the probation period, he was terminated.

15. The petitioner was appointed on 21.07.2008, and his probation period was extended on 28.08.2009 for one year. Thereafter, on 04.11.2010, his probation was further extended for six months. Thereafter, his probation was not further extended, and on 26.08.2011 he was terminated as non-confirmed. He obtained the appointment after suppressing the facts that he had no criminal incidents.

16. The petitioners has not completed the probation period of service, therefore, a departmental inquiry is not needed. The petitioner relied on the extension of probation beyond the permissible period as being contrary to Para 27 of the DoP&T Office Memorandum dated 24.11.2022 during the course of employment. That circular did not exist at the time of his termination, therefore, it is not applicable to the present case. The petitioner's service is not treated as confirmed after passing the two year period of service.

17. In case of **Chaitanya Prakash v. H. Omkarappa** reported in (2010) 2 SCC 62 the Apex Court has held as under:

*"20. In our considered opinion, the ratio of the above-referred decisions are squarely applicable to the facts of the present case. The respondent was time and again informed during the probation period about his deficiencies and was given ample opportunities to improve them. Therefore, enough*



*precautions were taken by the appellants to see that the respondent improved his performance and such an opportunity was provided to him. But such advices and opportunity were totally misplaced as the respondent considered the same as unnecessary encroachment and interference in his work and wrote back rudely in an intemperate language. Whether or not a person is suitable to be retained and confirmed in service could be considered and assessed by the Managing Director, namely, appellant no. 1, but he after making an appraisal submitted his report along with all other records of the respondent before the Board of Directors, who finally took the decision. The Board of Directors constituted of responsible persons and they while deciding the suitability of the respondent not only considered the Performance Assessment Report but also considered all other records, and thereafter they took a considered and conscious decision that the respondent was not suitable for confirmation and terminate his service. The said decision of the Board of Directors appears to be in parity with the ratio of the aforesaid decisions of this Court (supra). The reasons mentioned in the letter dated 29.11.1999 - terminating the services of the respondent cannot be said to be stigmatic. The appellant had time and again specifically brought to the notice of the respondent his short comings and no misconduct as such is alleged against the respondent by the appellant and therefore the present case is a case of termination simpliciter due to unsuitability of the respondent and not a case of punishment for misconduct."*

18. The petitioner did not successfully complete the probation period of service, therefore, no violation of Articles 14 and 21 of the Constitution is



found in the termination of the petitioner. During the probation period, many complaints were filed against the petitioner by co-employees regarding threats, which show that he did not complete his probation period successfully.

19. The petitioner also pleaded that his departmental appeal has not been decided and that the order of the Tribunal is silent in this regard. The petitioner was not able to demonstrate in what manner he filed the appeal before the authority. No memo of appeal was filed before the Tribunal or before this Court, therefore, no appeal was found to have been filed before the authority.

20. In view of the above, there is no ground to interfere with the order dated 20.03.2025 passed by the learned Tribunal. Hence, the writ petition deserves to be dismissed and is accordingly dismissed.

No order as to costs.

**(VIVEK RUSIA)**  
JUDGE

**(PRADEEP MITTAL)**  
JUDGE

Praveen