

(2018) 08 RAJ CK 0246

In the Rajasthan High Court

Case No : Special Appeal Writ No. 403, 497 of 2018

**Rajasthan State Road Transport Corporation @APPELLANT@Hash
Poornendu Sharma**

Date of Decision : 23-08-2018

Acts Referred:

Citation : (2018) 08 RAJ CK 0246

Hon'ble Judges : Pradeep Nandrajog, CJ;G R Moolchandani, J

Bench : Division Bench

Advocate : Vinayak Joshi, Kailash Choudhary, Vijay Poonia, Sunil Kumar
Singodiya, Anil Kumar

Final Decision : Dismissed

Judgement

1. We are deciding the three appeals together for the reason a common question of law arises in the three appeals.

2. Respondent Poornendu Sharma was appointed on probation as a Traffic Inspector on 20.09.2013. His case before the learned Single Judge was

that while on probation his services were terminated vide order dated 23.04.2015 recording reason for the termination that his integrity was not

unquestionable i.e. his integrity was doubtful. His case was that at no point of time was he served with any notice alleging any act of commission or

omission causing loss to the Corporation. His case was that on account of family circumstances when he availed leave, the Chief Manager got

annoyed.

3. At base the argument was that the order terminating his services was stigmatic and though he was on probation the order being stigmatic had to be quashed.

4. Ashok Kumar Gurjar challenged a similarly worded order dated 15.06.2015

terminating his service as a probationer. His case was that while working as a Conductor he was issued a notice on 22.05.2015 alleging that he had received money but not issued tickets to nine passengers on 11.05.2015. He denied the same. No enquiry was held. Instead, the order terminating his services recording that his integrity was doubtful was passed. In a nutshell he also claims his termination to be illegal on account of it being stigmatic.

5. Banwari Lal Meena filed a writ petition challenging the order dated 27.05.2015 terminating his service during probation on the ground that his integrity was doubtful. He also claimed the termination to be stigmatic. His case was that he was a Conductor on probation. On 14.03.2014 a charge-sheet was issued to him for being absent from duty. Penalty levied was 2% wages for two months.

6. By orders of different dates the writ petitions have been allowed and the reasoning of the learned Single Judge is common. A termination which is stigmatic on the face of it of a probationer without holding an enquiry would be illegal.

7. The case of the appellant is that on 18.03.2016 in D.B. Special Appeal Writ No.270/2016 the termination was preceeded by charge-sheets issued for taking money from passengers and not issuing tickets but ultimately services were terminated. The order terminating the services was upheld.

8. The decision of the Division Bench notes and specifically records that the order of termination was simplicitor in nature and therefore cannot be held to be stigmatic.

9. Now, law is clear. If there is a wrong committed by a probationer and in respect of which even if a charge-sheet is issued but the Department drops the proceedings in the chargesheet and without making the misdemeanor a foundation of the order of termination, if the order of termination is a simplicitor order of termination, the same would be upheld unless by lifting the veil the Court has some material to find and hold that it was penal in nature.

10. But where on the face of the order of termination it records a reason which is stigmatic, the issue of motive or foundation becomes irrelevant. A stigmatic order of termination has penal consequences. Â No other injury is required to be shown in respect of such orders.

11. Keeping in view the language of the three orders of termination which on their face record that the integrity of the writ-petitioners was doubtful

we concur with the view taken by the learned Single Judge.

12. The appeals are dismissed.