

(1996) 04 AHC CK 0097

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 11549 of 1991

Vishnu Prabhakar Mishra

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 26-04-1996

Acts Referred:

Chhatrasal Gramin Bank Staff Service Regulations, 1983 — Regulation 10(2)(a), 10(2)(H), 10(2)(i), 30
Constitution of India, 1950 — Article 12, 226

Citation : (1996) 04 AHC CK 0097

Hon'ble Judges : Palok Basu, J and I.M.Quddusi, J

Final Decision : Allowed

Judgement

1. M. Qndnsi, J.—By means of the present writ petition the petitioner has inter alia, challenged the order of termination from service passed by the Chairman, Chhatrasal Gramin Bank, Orai district Jalaun under Regulation 10 (2) (a) of Chhatrasal Gramin Bank Staff Service Regulations, 1983 (hereinafter referred to as the ?Service Regulations)? and also for a writ of mandamus to declare the provisions of Regulation 10 of the Service Regulations as null and void.

2. We have heard the petitioner Vishnu Prabhakar Misra in person and Sri V. M. Sahai for respondent Nos. 2 to 5.

3. The brief facts of the case are that the petitioner was appointed as Field Supervisor in the Chhatrasal Gramin Bank by its Chairman vide order dated 1641985 on probation for a period of two years. It was one of the conditions indicated in the order of appointment of the petitioner that his appointment will be governed by the rules to be framed under Chhatrasal Gramin Bank Staff Service Regulations and also the rules prescribed under R. R. B. Act. In pursuance of his appointment he joined on 651995.

4. During the course of employment some complaints were received against the petitioner with regard to bungling and misappropriation of funds and embezzlement as a result of which a preliminary enquiry was got conducted and

the enquiry officer submitted his report. On the basis of that report a high power committee consisting of General Manager, Manager (Finance) and Manager Vigilance of the bank was constituted which recommended the termination of the petitioner's service under Regulation No. 10 (2) (ii) of the Service Regulation, inter alia, holding that the petitioner caused loss to the bank to the extent of Rs. 35,000 and misappropriated the amount of fund and his previous conduct was also not good. The Chairman of the bank passed order of termination of the petitioner's services under Regulation 10(2)(i) of the Service Regulations by tendering emolument in lieu of three months notice.

5. The petitioner preferred an appeal under Regulation 31 fi) against the, impugned order of termination which was rejected by the Board of Directors on 31121990. The decision of the Board was communicated to the petitioner by the Chairman vide letter dated 631991.

6. An objection was raised through the counteraffidavit to the effect that the respondent bank is not a "State" within the meaning of Article 12 of the Constitution but during the course of argument Sri Sahai fairly conceded that the respondent bank is an instrumentality and thug is a "State" within the meaning of Article 12 and the writ petition against it is maintainable.

7. The contention of the petitioner is that since he had completed maximum period of probation prescribed under the Service Regulations he became confirmed employee, the provisions of Regulation 10 of the Service Regulations according to which the services of any officer or employee could be terminated by means of an innocuous order by giving three months" notice or salary in lieu thereof in case of an officer and one month"s notice or salary in lieu thereof in case of an employee is bad unconstitutional and is violative of Articles 14, 16, 21 and 300A of the Constitution of India and the same is liable to be struck down. The last contention of the petitioner is that his services could not have been terminated on the basis of the charges without conducting a fair and impartial enquiry and affording him adequate opportunity to defend. ^

8. Sri Sahai submitted that since there was no confirmation order of the petitioner, he was a temporary officer and his services could be terminated by giving him three months" notice or salary in lieu thereof. In the absence of any confirmation order there could not be any automatic confirmation of the petitioner. Since no punishment has been imposed against the petitioner he has not been penalised, a simplicitor order terminating his services could have been passed which casts no stigma against him and as such, there was no legal infirmity in the impugned order.

9. In the respondent bank there are two categories of the persons working therein i. e. Officers" and "Employees". The post of the Field Officer comes within the category of the officer and the petitioner was an officer of the bank. Before considering the matter further it is necessary to peruse the service regulations. The relevant Service Regulations are Regulations 3, 5, 8, 9, 10 and

30 which are reproduced as under :

?3. Employees shall include Senior ClerkcumCashier Junior ClerkcumCashier, junior ClerkcumTypist, Stenographer or StenoTypist, DrivercumMessenger, Sweeper and such other employee as may be specifically included by the Board with the prior approval of the Central Government.?

?5. The Chairman of the Bank shall be the appointing authority in respect of all the posts in the Bank, other than that of the Chairman, referred to in regulation 3.?

?8 (f) Every officer on his appointment on a post in the Bank shall be on probation for a period of two years which shall be extendable upto a period not exceeding one year.

(2) Every employee on his appointment on a post in the Bank shall be on probation for a period of one year which shall be extendable upto a period not exceeding six months.

(3) Where during the period of probation, including the period of extension of probation, if any, the appointing authority is of the opinion that the officer or employee is not fit for confirmation on the said post :

(a) in the case of direct appointee, the services may be terminated by one month's notice or payment of one month's emoluments in lieu thereof which he was promoted.?

?9. An Officer or employee shall be confirmed in the service of the Bank, in the opinion of the appointing authority, the officer or employee has satisfactorily completed his probation.?

"10. (1) (a) An officer or employee shall not leave or discontinue his service in the Bank without first giving notice in writing to the Chairman of the Bank of his intention to leave or discontinue the service.

(b) The period of notice required shall be

(i) three months in the case of officers, and (ii) one month in the case of other employees.

(c) in case of breach by an employee of the provisions of this subregulation, he shall be liable to pay to the Bank as compensation a sum equal to his emoluments for the period of notice required of him.

(d) He shall be liable to refund the pay or allowances or both, if any, drawn by him while on training and make good the training expanses, incurred by the Bank or sponsor bank for deputing him for training.

(e) In exceptional circumstances the payment of such compensation and refund may be waived by the Chairman, at his discretion.

(2) (a) The Bank may terminate the service of an

(i) officer after giving him three months" notice or emoluments in lieu thereof:

(3) Nothing in subregulations (2) shall affect the right of the Bank :

(a) to retire or dismiss an officer or employee without notice or pay in lieu thereof in accordance with the provisions of regulations 11 and 30 ; and

(b) to terminate the service of an officer or employee without notice or pay in lieu thereof has .being certified by a Medical Practitioner recognised by the Bank, to be permanently incapacitated for further continuous service in the Bank."

"30 (1) Without prejudice to the provisions of other regulations, an officer or employee who commits a breach of these regulations or who displays negligence, inefficiency or indolence, or who knowingly does anything detrimental to the interests of the Bank or in conflict with instructions or who commits a breach of discipline or is guilty of any other act of misconduct, shall be liable to the following penalties :

(a) reprimand ;

(b) delay or stoppage of increments or promotion ;

(c) degradation to a lower post or grade or to a lower stage in his incremental scale ;

(d) recovery from pay of the whole part of any pecuniary loss caused to the Bank by the officer or employee ;

(e) removal from service which shall not be a disqualification for future employment.

(f) dismissal.

(2) No officer or employee shall be subjected to the penalties referred to in clause (b), (c), (d), (e), or (f) of subregulation (1) except by an order in writing signed by the Chairman and no such order shall be passed without the charge being formulated in writing and given to the said officer or employee so that he shall have reasonable opportunity to answer them in writing or in person, as he prefers and in the latter case his defence shall be taken down in writing and read to him :

Provided that the requirements of this subregulation may be waived, if the facts on the basis of which action is to be taken have been established in a court of law or court martial, or where the officer or employee has absconded or where it is for any other reason impracticable to communicate with him or where there is difficulty in observing them and the requirements can be waived without injustice to him. In every case where all or any of the requirements of this subregulation are waived the reasons for so doing shall be recorded in writing.

(3) The enquiry under this regulation and the procedure with the exception of the final order, may be delegated in case the person against whom proceedings are taken is an officer to any officer who is senior to such officer and in the case of an employee to any officer. For purposes of the enquiry, the officer or employee may not engage a legal practitioner.

(4) An officer or employee may be placed under suspension by the officer empowered to pass the final order under this regulation. During such suspension, the officer or employee shall receive subsistence allowance equal to one third of basic pay the officer or employee was receiving on the date prior to the date of suspension, plus dearness allowance and other allowances excluding conveyance allowance, entertainment allowance and special allowance calculated on the reduced pay for the first three months of suspension. For the subsequent period after three months he shall be entitled to draw 1/2 of the basic pay plus the dearness allowance and other allowances specified above calculated on the reduced pay :

Provided that if no penalty under clause (b), (c), (d), (e) or (f) of subregulation (1) is imposed the officer, or employee shall be refunded the difference between the subsistence allowance and the emoluments which he would have received but for such suspension, for the period he was under suspension and that, if a penalty is imposed on him under all or any of the said clauses, no order shall be passed which shall have the effect of compelling him to refund such subsistence allowance. The period during which an officer or employee is under suspension shall, if he is not dismissed from the service, be treated as period spent on duty, leave, or period not spent on duty as the officer who passes the final order may direct.?

10. Regulation 3 deals with categorisation of officers and employees. Regulation 8 deals with the initial probation and the maximum period of probation. The maximum period of probation for the officers provided therein is three years and it prohibits further extension of probationary period. Regulation 9 provides that an officer or employee shall be confirmed in service of the bank if in the opinion of the appointing authority the officer or employee has satisfactorily completed his probation. Thus it is clear that if an officer or employee has not completed his probation satisfactorily his services can be terminated at the end of the probationary period in case it has not already been terminated before that.

11. In the matter of Dhanjibhai Ramjibhai v. State of Gujarat, 1985 (2) SCC 5 the Hon"ble Supreme Court had held that "the period of two years specified in Rule is merely the initial period for which an officer may be appointed on probation. As the terms of the same Rule indicate, the period of probation may be extended. The period of two years does not represent the maximum period of probation". It was further held therein that it is perfectly possible that during the initial period of probation the confirming authority may be unable to reach a definite conclusion on whether the candidate should be confirmed or his services should be terminated. Such candidate may be allowed to continue beyond the

period of initial period of two years in order to allow the confirming authority to arrive at a definite opinion.

12. The proposition laid down by the Hon''ble Supreme Court in Dhanjibhai Ramjibhai's case was not that even beyond the maximum period of probation, an officer or an employee should be allowed to continue as a temporary employee.

13. Sri Sahai has "referred to the case law reported in AIR 1991 SC 1402, Municipal Corporation Raipur v. Ashok Kumar Misra. In that case respondent was appointed as a Lower Division Clerk on September 22, 1966 and was kept on probation for a period of two years which expired on September 21, 1968 and on December 9, 1968 the appellant served him with one month's notice terminating his services with effect from January 9, 1969. It was contended that on expiry of the period of two years no action was taken by the Municipal Corporation. Therefore the respondent must be deemed to have been confirmed. In that case the Hon''ble Supreme Court had held that expiry of the period of probation does not entitle him with the right to a deemed confirmation but in that case below the provisions regarding probation under the relevant service rules a note was specifically written which is quoted as under :

?Note.A Probationer whose period of probation is not extended under this subrule but who has neither been confirmed nor discharged from service at the end of the period of probation shall be deemed to have been continued in service, subject to the condition of his service being terminable on the expiry of a notice of one calendar month given in writing by either side.?

14. No such provision or note has been made in the service regulations in the instant matter. Hence the law laid down by the Hon''ble Supreme Court in the matter of Municipal Corporation, Raipur (supra) is distinguishable on facts.

15. Sri Sahai has also placed reliance on case law laid down by the Hon''ble Supreme Court in the matter of Governing Council of Kidwai Memorial Institute of Oncology, Bangalore v. Dr. Pandurang Godwalkar, reported in ATR1993 SC 392, In that case respondent was appointed as a lecturer on 3rd July, 1981. He was put on probation for a period of one year but the period of probation could have been extended at the discretion of the competent authority but before the expiry of one year the order of termination was issued on 30th January, 1982 paying him one month's salary in lieu of one month's notice as required under the rules. In that case the Hon''ble Supreme Court has held that whenever service of an employee is terminated during the period of probation by an order of termination simpliciter after some preliminary enquiries, it cannot be held that just because some enquiry had been made against him before issuance of an order of termination, it really amounted to his removal from service on a charge as such penal in nature. In that case the respondent was a probationer but in the instant matter the petitioner had already completed maximum period of probation of three years prescribed under the Service Rules on 551988 and thereafter he

remained no more a probationer. Hence the case law laid down in Governing Council's case (supra) is not applicable in the instant matter.

16. In the matter of State of Punjab v. Dharam Singh, AIR 1968 SC 1210, the Hon'ble Supreme Court held that where, the Service Rules fix a certain period of time beyond which the probationary period cannot be extended and an employee appointed or promoted to a post on probation is allowed to continue in that post after completion of the maximum period of probation without an express order of confirmation, in such a case it is permissible to draw an inference that the employee who was allowed to continue in the post on completion of maximum period of probation, has been confirmed in the post by implication. In that case Rule 6(3) of the Service Rules provided that the total period of probation including extension, if any, shall not exceed three years. Rule 6 (3) of the Service Rules applicable in that case is reproduced below :

6 (3) On the completion of the period of probation the authority competent to make appointment may confirm the member in his appointment or if his work or conduct during the period of probation has been in his opinion unsatisfactory he may dispose with his services or may extend his period of probation by such period as he may deem fit or revert him to his former post if he was promoted from some lower post:

Provided that the total period of probation including extensions, if any, shall not exceed three years.

The relevant portion of judgment of the Hon'ble Supreme Court in the matter of State of Punjab v. Dharam Singh (supra) is quoted below :

In the present case, Rule 6 (3) forbids extension of the period of probation beyond three years. Whereas in the present case, the Service Rule fix a certain period of time beyond which the probationary period cannot be extended, and an employee appointed or promoted to a post on probation is allowed to continue in that post after completion of the maximum period of probation without any express order of confirmation, he cannot be deemed to continue in that post as a probationer by implication. The reason is that such an implication is negated by the service rule forbidding extension of the probationary period beyond the maximum period fixed by it. In such a case, it is permissible to draw the inference that the employee allowed to continue in the post on completion of the maximum period of probation has been confirmed in the post by implication.

17. In the instant matter also the service regulations do not permit to continue an officer on probation extending three years.

18. In the matter of State of Gujarat v. Akhilesh Chandra Bhargava, AIR 1987 SC 2135, respondent A. C. Akhilesh was appointed in Indian Police Service on probation. The probation rules prescribed two years' probation with a liberty to the Central Government to extend the period of probation. The Central Government issued guidelines to the effect that the period of probation should

not be extended by more than one year and no member of the service should by convention, be kept on probation for more than double normal period i.e. four years. In that case the Hon'ble Supreme Court had held as under :

We hold that the respondent stood confirmed in the cadre on the relevant date when he was discharged. For a confirmed officer in the cadre, the Probation Rules did not apply and therefore, proceedings in accordance with law, were necessary to terminate service. That exactly was the ratio of the decision in *Moti Ram Deka v. General Manager, N. E. F. Railways, Maligaon, Pandu*, 1964 (5) SCR 683 : AIR 1964 SC 600 : On the analysis indicated above, the net result, therefore, is that the respondent No. 1 had become a confirmed officer of the Gujarat IPC cadre and under Rule 12 (bb) of the Probation Rules his services could not be brought to an end by the impugned order of discharge.

19. In the matter of *Om Prakash Mawrya v. U. P. Cooperative Sugar Factories*

Federation, Lucknow, AIR 1986 SC 1844 the Hon'ble Supreme Court had laid down as under

The U. P. Cooperative Institutional Services Board constituted by the State of Uttar Pradesh in accordance with subsection (2) of Section 122 of the U. P. Cooperative Societies Act, 1965 has framed the U. P. Cooperative Societies Employees Service Regulations, 1975 which regulate the condition of service of employees of all the cooperative societies placed under the purview of the Institutional Service Board by the Government Notification No. 366C/XIIC33671 dated March 4 1972 These regulations contain provisions for recruitment, probation confirmation, seniority and disciplinary control. Regulation 17 provides for probation, it lays down that all persons on appointment against regular vacancies shall be placed on probation for a period of one year. Proviso to the Regulation lays down that the appointing authority may, in individual cases extend the period of probation in writing for further period not exceeding one year, as it may deem fit. Clause (ii) of the Regulation provides that if, at any time during or at the end of the period of probation or the extended period of probation, it appears to the appointing authority that the employee placed on probation, has not made sufficient use of the opportunity offered to him, or has otherwise failed to give satisfaction, he may be discharged from service, or reverted to the post held by him substantively, if any, immediately before such appointment. Regulation 18 provides for confirmation of an employee on the satisfactory completion of the probationary period. Regulations 17 and 18 read together, provide that appointment against a regular vacancy is to be made on probation for a period of one year, this probationary period can be extended for a period of one year more. The proviso to Regulation 17 restricts the power of the appointing authority in extending period of probation beyond the period of one year. All employees appointed against a regular vacancy cannot be placed on probation for a period more than two years and if during the period of probation the appointing authority is of the opinion that the employee has not made use of opportunity afforded to him he may

discharge him from service or revert him to his substantive post but he has no power to extend the period of probation beyond the period of two years. Regulation 18 stipulates confirmation of an employee by an express order on the completion of the probationary period. The regulations do not expressly lay down as to what would be the status of an employee on the expiry of maximum period of probation where no order of confirmation is issued and the employee is allowed to continue in service. Since Regulation 17 does not permit continuation of an employee on probation for a period more than two years the necessary result would follow that after the expiry of two years probationary period, the employee stands confirmed by implication.?

20. In *M. K. A. Agarwal v. Gurgaon Gramin Bank*, AIR 1988 SC 286, the appellant M K. Agarwal was appointed as Branch Manager on probation with effect from 16/10/1978. The period of probation was one year in the first instance with power to the bank to extend probation for a further period of six months at the end of which the probationer would either be confirmed if he was found suitable or if, otherwise, discharged from service. The 18 months' period representing the outer most limit of the permissible period of probation expired in April, 1986. The appellant was neither discharged nor an express order of confirmation was made and, as such he continued in service. The Hon'ble Supreme Court in that matter, inter alia held as under :

?The period of the probation was one year, in the first instance. The employer could extend it only for a further period of six more months. The limitation on the power of the employer to extend the probation beyond 18 months coupled with the further requirement that at the end of it the services of the probationer should either be confirmed or discharged render the inference inescapable that if the probationer was not discharged at or before the expiry of the maximum period of probation, then there would be an implied confirmation as there was no statutory indication as to what should follow in the absence of express confirmation at the end of even the maximum permissible period of probation. In cases where, as here, these conditions coalesce, it has been held, there would be confirmation by implication, See *State of Punjab v. Dharam Singh*, AIR 1968 SC 1210 ; *Om Prakash Maurya v. U. P. Co-operative Sugar Factories Federation Lucknow*, AIR 1986 SC 1944.?

21. A perusal of Regulation 10 (2) of the Service Regulations would show that the provision to terminate the services of an officer or employee has been made without making any difference between temporary and confirmed officer or employee. As such the provisions of termination of services are equally applicable to both temporary as well as permanent officers/employees of the respondent Bank.

22. In the matter of *M. K. Agarwal v. Gurgaon Gramin Bank* (supra) a provision parallel to the present staff regulations in the service regulations namely, *Gurgaon Gramin Bank (Staff) Services Regulations, 1980* was existing as Regulation 10(2) (a) which is reproduced below :

?10. Termination of service by notice.(1).....

(2) (a) The Bank may terminate the service of an

(i) Officer after giving him three months notice or pay in lieu thereof;

(ii) employee after giving him one month's notice or pay in lieu thereof ;

(iii) The power to terminate the service of an officer or employee shall be exercised by the Chairman]?

23. In the same case the Hon"ble Supreme Court held that the impugned Regulation 10 (2)(a) confirming as it does on the bank an arbitrary and unguided power, is unconstitutional. The case law laid down in West Bengal State Electricity Board v. D. B. Ghosh, AIR 1985 SC 722 ; Central Inland Water Transport Corporation Ltd, v. Brojo Nath, AIR 1986 SC 1571 and O. P. Bhandari v. Indian Tourism Development Corporation Ltd. AIR 1987 SC 11 were relied upon. The Hon"ble Supreme Court consequently also quashed the order of termination of the petitioner's service which had for its foundation a provision which was unconstitutional.

24. In the matter of West Bengal State Electricity Board v. D. B. Ghosh (supra) the Hon"ble Supreme Court held that the regulation provided termination of services of permanent employee by serving three months' notice or of payment of salary for the corresponding period in lieu thereof is totally arbitrary and confers on the Board a power which is capable of vicious discrimination. "It is a naked hire and fire" rule, the time for banishing which altogether from employer-employee relationship is fast approaching. Its only parallel is to be found in Henry VIII Clause so familiar to administrative lawyers.

25. In the matter of Central Inland Water Transport Corporation Ltd. v. Brojo Nath (supra) the Hon"ble Supreme Court has, inter alia, held as under:

?100. The power conferred by Rule 9(i) is not only arbitrary but is also discriminatory for it enables the Corporation to discriminate between employee and employee. It can pick up the employee and apply to him, clause (i) of Rule 9. It can pick up another employee and apply to him clause (ii) of Rule 9. It can pick up yet another employee and apply to him subclause (iv) of clause (b) of Rule 36 read with Rule 38 and to yet another employee it can apply Rule 37. All this the Corporation can do when the same circumstances exist as would justify the Corporation in holding under Rule 38 a regular disciplinary inquiry into the alleged misconduct of the employee. Both the contesting Respondents had, in fact, been asked to submit their explanation to the charges made against them, Sengupta had been informed that a disciplinary inquiry was proposed to be held in his case. The charges made against both the Respondents were such that a disciplinary inquiry could easily have been held. It was however, not held but instead resort was had to Rule 9(i).?

?101. The Corporation is a large organization. It has offices in various parts of

West Bengal, Bihar and Assam, as shown by the said Rules, and possibly in other States also. The said Rules form part of the Contract of employment between the corporation and its employees who are not workmen. These employees had no powerful workmen's Union to support them. They had no voice in the framing of the said Rules. They had no choice but to accept the said Rules as part of their contract of employment. There is gross disparity between the corporation and its employees, whether they be workmen or officers. The Corporation cannot afford to dispense with the services of an officer. It will find hundreds of others to take his place but an officer cannot afford to lose his job because if he does so, there are not hundreds of jobs waiting for him. A clause which as clause (i) of Rule 9 is against right and reason. It is wholly unconscionable. It has been entered into between parties between whom there is gross inequity of bargaining power. Rule 9(i) is a term of the contract between the Corporation and all its officers. It affects a large number of persons and squarely falls within the principle formulated by us above. Several statutory authorities have a clause similar to Rule 9(i) in their contracts of employment. As appears from the decided cases. The West Bengal State Electricity Board and Air India International have it. Several Government companies apart from the Corporation (which is the First Appellant before us) must be having it. There are 970 Government companies with paid up capital of Rs 16 4149 crores as stated in the written arguments submitted on behalf of the Union of India. The Government and its agencies and instrumentalities constitute the largest employer in the country. A clause such as Rule (i) in a contract of employment affecting large sections of the public is harmful and injurious to the public interest for it tends to create a sense of insecurity in the minds of those to whom it applies and consequently it is against public good. Such a clause, therefore, is opposed to public policy and being opposed to public policy, it is void under Section 23 of the Indian Contract Act.

26 In the matter of O. P. Bhandari v. Indian Tourism Development Corporation Ltd. (supra) Rule 31(v) of the I. T. D. C. Rules was challenged .which is reproduced as under :

31. Termination of services. The service of an employee may be "terminated by giving such notice or notice pay as may be prescribed in the contract of service in the following manner :

(i) to (iv).....

(v) of an employee who has completed his probationary period and who has been confirmed or deemed to be confirmed by giving him 90 days' notice or pay in lieu thereof.

The Hon'ble Supreme Court while quashing the above quoted provision has dealt with as under ;

This rule cannot coexist with Articles 14 and 16(1) of the Constitution of India. The rule must therefore die, so that the fundamental rights guaranteed by the aforesaid constitutional provisions remain alive. For, otherwise, the guarantee

enshrined in Articles 14 and 16 of the Constitution can be set at naught simply by framing a rule authorising termination of an employee by merely giving a notice. In order to uphold the validity of the rule in question it will have to be held that the tenure of service of a citizen who takes up employment with the State will depend on the pleasure or whim of the competent authority unguided by any principle or policy. And that the services of an employee can be terminated even though there is no rational ground for doing so, even arbitrarily or capriciously. To uphold this right is to accord a ?magacarta? to the authorities invested with these powers to practise uncontrolled discrimination at their pleasure and caprice on consideration not necessarily based on the welfare of the organisation but possibly based on personal likes and dislikes personal preferences and prejudices.?

27. In the instant matter the impugned order of termination of service is not so innocuous as it is claimed to be. It is a camouflage with a view to avoid the enquiry under regulation 30. The termination order was only intended to punish the petitioner for the alleged misconduct in respect of the allegations which are mentioned in the recommendations of the high level committee. It is hereby held without hesitation that the said committee which recommended the termination of service of the petitioner under Regulation of Services of the petitioner under Regulation 10(2)(ii) could not have done so because the said Regulation is meant for terminating services of an employee and not of an officer. There is thus force in the argument of the petitioner that the impugned order is not an innocuous order but is a purposive one which has caused immense damage to petitioner's rights.

28. In the result, the writ petition succeeds and is allowed. The order of termination of the services of the petitioner dated 21111988 passed under Regulation 10(2)(a)(i) as contained in Annexure1 to the supplementary affidavit dated 1281993 filed by the petitioner and the order dated 31121990 rejecting the appeal of the petitioner ate quashed. The petitioner shall be reinstated with full consequential benefits of service including arrear of salary and due increments.

29. Parties will bear their costs.