



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2025:PHHC:074706-DB



Civil Writ Petition No. 17822 of 2013 (O&M)

Reserved on : 28.01.2025

Pronounced on: 29th May, 2025

Ankur Lal

.....Petitioner

versus

Hon'ble Punjab and Haryana High Court and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL, JUDGE

Present : Mr. Sunil Kumar Nehra, Advocate,
Mr. Rahil Mahajan, Advocate,
Mr. Akash Gahlawat, Advocate,
Mr. Viren Nehra, Advocate,
Mr. Arjun Dosanj, Advocate, for the petitioner.

Mr. Sanjeev Sharma, Senior Advocate with
Mr. KDS Hooda, Advocate, for respondent No.1.

Mr. Deepak Balyan, Addl. Advocate General, Haryana
for respondent No.2.

SHEEL NAGU, CHIEF JUSTICE

This petition invoking writ jurisdiction of this Court under Article 226 of the Constitution of India seeks issuance of a writ of certiorari for quashing the recommendations dated 23.07.2012 (Annexure P-18) by which probationary services of the petitioner on the post of Civil Judge (Junior Division) at the entry level have been recommended to be dispensed with by the High Court. Further challenge is laid to Annexure P-22, by which consequential order dated 04.12.2012 is passed by the State of Haryana, the petitioner has been discharged from his probationary service.



2. Factual matrix in the instant case is as follows: -

The petitioner was appointed on 13.02.2008 as Civil Judge (Junior Division) in the Haryana Civil Services (Judicial Branch) in terms of Rule 7-B of Punjab Civil Services (Judicial Branch) Rules, 1951 (for short 'Rules of 1951') on two years' probation. The assessment and review of the work and conduct of the petitioner during his probation was put up before the Administrative Judge and thereafter before the concerned Administrative Committee on 17.03.2011. The Committee after receiving it from the Administrative Judge on 21.09.2011 considered the question of confirmation of various probationers including that of the petitioner.

2.1 In regard to the petitioner, the matter was deferred till finalization of certain complaints received against the petitioner. The said recommendation of the concerned Administrative Committee dated 21.09.2011 was approved by the Full Court on 23.11.2011.

2.2 The Administrative Committee yet again took up the matter of the petitioner for confirmation on 16.05.2012 and recommended for extension of the period of probation qua the petitioner for six months in the backdrop of the remarks recorded in the Annual Confidential Report for the years 2010-11 being below average (C) 'integrity doubtful'. This recommendation of the Administrative Committee dated 16.05.2012 was affirmed by the Full Court on 07.08.2012.

2.3 An anonymous complaint was received from Bar Association, Ferozepur Jhirka, which was placed by the then Acting Chief Justice before the concerned Administrative Committee, which met on 18.07.2012 and recommended that keeping in view the work, conduct and overall service record of the petitioner, who was then posted as Civil Judge (Junior Division), Bhiwani, his services be dispensed with during probation. This



recommendation of the Administrative Committee dated 18.07.2012 was accepted by the Full Court on 23.07.2012. The recommendation of the Full Court was thereafter conveyed to the Chief Secretary of the Government of Haryana vide letter dated 25.07.2012 which led to the passing of order of discharge of the petitioner from probationary services which is impugned herein.

3. The service profile of the petitioner in three to four years of his service career rendered during probation was as follows: -

Years	Remarks
2009-10	B-Satisfactory
2010-11	'C- Below Average' (Integrity doubtful).
2011-12	Adverse remarks penned down by the Administrative Judge 'B Average' subject to outcome of the anonymous complaint received from Bar Association, Ferozepur Jhirka.

4. One of the essential grounds raised by the petitioner in support of the challenge to the order of discharge is that proviso to Rule 7.3 of the Rules of 1951 ought to be read in the attending facts and circumstances of the case to mean that after completion of the period of probation of two years plus the extended period of one year and in the backdrop of available vacancies in the cadre, the petitioner ought to have been deemed to be confirmed.

5. In this regard, this Court is unable to accept the contention of the petitioner since concept of deemed confirmation is anarchy which has been given up long time ago in service jurisprudence.

6. Even otherwise, relevant Rule 7.3 proviso clearly stipulates that mere completion of maximum period of three years' probation would not confer on the probationers, the right to be confirmed till there is a permanent vacancy in the cadre.



6.1 A close scrutiny of Rule 7.3 reveals that on completion of period of probation, the Governor of Haryana may on the recommendation of the High Court either confirm the probation if he is working against the permanent vacancy or if his work and conduct is not satisfactory dispense with the services or extend his period of probation beyond the expiry of the period of probation.

6.2 Aforesaid Rule 7.3, if read objectively keeping in mind the objects sought to be achieved, clearly stipulates that confirmation is not only subject to availability of vacancy but also to all important attending aspects of the probationers conduct and work being satisfactory which element in the present case was absent. The petitioner received adverse remarks and was awarded 'B satisfactory' for one year, integrity was doubtful for one year and 'B Average' for third year thereby extending liberty to the employer to dispense with his probationary service in terms of the said Rule.

6.3 More so there is no *mala fide* alleged against any particular authority while laying challenge to the order of discharge.

7. The concept of probation is to enable the Employer to analyse the work, conduct and behaviour of the appointee during the period of probation to come to a conclusion whether the probationer is suitable to be continued by confirmation in service. This power cannot be taken away from the Employer on the anvil of the concept of deemed confirmation. Deemed confirmation is a perilous concept in service jurisprudence which has long been discarded since it erodes into the power of the Employer to assess work, conduct and behaviour of the probationer. There may be occasions where the Employer being unable to take a decision on the question of confirmation, extends the period of probation for another one year, to give some more time to the probationer to render services as a probationer by giving him further



opportunity to improve his lackluster performance rendered in the past. This effort of the Employer to afford further opportunity to a probationer may lead to cross the alleged maximum period of probation prescribed in the Rules. If deemed confirmation is brought into play, notwithstanding the adverse remarks including that of 'integrity doubtful' based on the lackluster performance, conduct and behaviour of the petitioner, then, an anomalous situation would arise where the probationer despite being unfit for confirmation, is deemed to be confirmed, bringing into the service a Judge of doubtful integrity, whose service record is tainted with adverse remarks. This would be deleterious to the very concept of probity on which the entire judicial system stands.

8. In view of the above discussion, this Court is of the considered view that the concept of deemed confirmation cannot be brought into play in the present case and therefore, the ground raised in that regard by the petitioner is rejected.

9. This Court, therefore, does not find any illegality in the impugned order of discharge of the petitioner from probationary service. Accordingly, the petition stands dismissed.

The original record pertaining to ACRs of the petitioner retained in Court is returned back in original to the concerned Branch.

(SHEEL NAGU)
CHIEF JUSTICE

(SUMEET GOEL)
JUDGE

29.05.2025

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No