



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 14008/2016

Prakash Manda S/o Sh. Ghewar Ram Manda, R/o Village And
Post Dhadhariyan Kalan, Tehsil Degana, Dist Nagaur Raj.

-----Petitioner

Versus

1. The Rajasthan State Road Transport Corporation Rsrtc,
Head Officer, Parivahan Marg, Chaumu House, Jaipur
Throug Its Managing Director
2. The Chief Manager, Rsrtc, Deedwana, Depot, District
Nagaur.

-----Respondents

For Petitioner(s)	:	Mr. Deepak Nehra
For Respondent(s)	:	Mr. Shashank Sharma for Mr. Harish Purohit

REPORTABLE HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

14/07/2025

1. Heard learned counsel for the parties.
2. The present writ petition has been filed against the
order dated 13.05.2015, whereby, the services of the petitioner
have been terminated.
3. Briefly noted the facts of the present writ petition are
that the petitioner was appointed on the post of Conductor in the
respondent Department on 03.03.2014. While the petitioner was
discharging his duties as Conductor, the allegation of carrying
passengers without tickets on four occasions were noted and,
therefore, a notice was served upon the petitioner on 01.05.2015.
The petitioner filed detailed reply to the notice issued by the
respondents on 03.05.2015. The respondents, without taking
note of the reply filed by the petitioner, have terminated his



services vide order dated 13.05.2015 (Annex.4) invoking the Clause 8 (iii) & (iv) of the Rajasthan State Road Transport Workers & Workshop Employees Standing Orders, 1965 (hereinafter referred to as 'the Standing Orders, 1965'). Aggrieved by the order dated 13.05.2015, the petitioner has preferred the present writ petition.

4. Learned counsel for the petitioner vehemently submits that the respondents have terminated the services of the petitioner without holding an enquiry in the matter. Learned counsel submits that the order dated 13.05.2015 (Annex.4) cannot be stated to be an order of termination simplicitor as the petitioner has been terminated on account of questionable integrity. Learned counsel submits that if the services of the petitioner are terminated by a stigmatic order, then holding of necessary enquiry is *sine quo non*. He submits that since no enquiry before terminating services of the petitioner was held by the respondents, therefore, the order dated 13.05.2015 is not sustainable in the eye of law. To buttress his contention, learned counsel for the petitioner has relied upon a judgment rendered by a Coordinate Bench of this Court in batch of writ petitions led by **S.B. Civil Writ Petition No.9242/2014 (Hanuwant Singh vs. RSRTC & Ors.), decided on 13.08.2015**. He, therefore, prays that the writ petition may be allowed and the order dated 13.05.2015 may be quashed and set aside.

5. *Per contra*, learned counsel for the respondents vehemently opposed the submissions made by learned counsel for the petitioner and submits that the petitioner was on probation for a period of two years and while working on the post of Conductor,



he was found carrying passengers without tickets on four occasions and, therefore, the respondents have rightly come to the conclusion that the services of the petitioner in probation period are not found to be satisfactory and, therefore, as per Clause 8 (iii) & (iv) of the Standing Orders, 1965, the services of the petitioner are not liable to be continued/confirmed. Learned counsel for the respondents submits that since the petitioner's integrity was found to be doubtful/questionable while serving as Conductor in the respondent Department, therefore, the order dated 13.05.2015 terminating the services of the petitioner has rightly been passed. He, therefore, submits that no interference in the writ proceedings is warranted.

6. I have considered the submissions made at the Bar and gone through the relevant record of the case.

7. The facts in the writ petition discloses that the petitioner was appointed on the post of Conductor in the respondent Department vide order dated 03.03.2014. The probation period of the petitioner was for two years. During the probation period, the petitioner was found carrying passengers without tickets on four occasions, therefore, a notice dated 01.05.2015 was served upon the petitioner by the respondents. The notice issued by the respondents was duly replied by the petitioner vide his reply dated 03.05.2015. Without considering the reply filed by the petitioner, the order dated 13.05.2015 was passed by the respondents, whereby, the services of the petitioner were terminated taking recourse to Clause 8 (iii) & (iv) of the Standing Orders, 1965.



8. It will be useful to reproduce Clause 8(iii) and (iv) of the Standing Orders, 1965 :-

"(iii) A probationer shall be confirmed in his appointment at the end of his period of probation if he has successfully passed the prescribed trade test or prescribed departmental examination and if the appointing authority is satisfied that his integrity is unquestionable and he is otherwise fit for confirmation.

(iv) No compensation shall be granted to a probationer who is removed during or at the end of the probation, if he has failed to give satisfaction to the appointing authority of if he has failed to pass the prescribed trade test or the prescribed departmental examination".

9. A bare perusal of the Clause 8 (iii) and (iv) of the Standing Orders, 1965 shows that the services of a probationer shall be confirmed only if he has successfully passed the prescribed trade test or prescribed departmental examination and if the appointing authority is satisfied that his integrity is unquestionable and he is otherwise fit for confirmation. Therefore, the Clause 8(iii) of the Standing Orders, 1965 specifically deals about the confirmation or non-confirmation of a person working in the respondent Department during probation period and Clause 8(iv) of the Standing Orders, 1965 deals with the payment of compensation to an employee, if he is removed during or at the end of probation. If a probationer does not meet the prescribed criteria mentioned therein, then the Authority may not confirm the probationer, but non-confirmation will not automatically entail



into the termination of the services of such employee. The consequence of non-fulfillment of conditions mentioned in sub Clause (iii) of clause 8 of the Standing Orders, 1965 does not automatically warrant into the termination of the services, more particularly, when a person is charged for some illegality/wrong, then holding of enquiry in such cases is mandatory. In the present case, since the petitioner was found involved in carrying passengers without tickets and the allegation was that his integrity is questionable, consequently, his services were terminated, therefore, the same can easily be termed as an "order of termination" having been passed with stigma. Since the petitioner's services are being terminated on the ground of questionable integrity, therefore, the same is a stigmatic order and in such circumstances, holding of enquiry was *sine-quo-non*.

10. The Coordinate Bench of this Court in case of *Hanuwant Singh* (supra) has categorically held as under :-

"The proposition of law as expounded in the catena of judgments cited at the bar clearly postulates that if the order of a probationary employee's termination is punitive and stigmatic and where the allegation of misconduct constitutes the foundation of the action taken, then the ultimate decision taken by the competent authority can be nullified on the ground of violation of the rules of natural justice. It was further held that in such cases, the Court can lift the veil for examining whether, in the garb of termination simplicitor, the employer had in fact punished



the employee for misconduct. Considering the material available on record in its entirety and upon examining the impugned orders on the touchstone of the principles enunciated in the above judgments, this Court is in total agreement with the arguments advanced by the petitioners' counsel that the impugned orders were founded on allegations of misconduct and cannot be termed as orders of termination simplicitor.

In the background of the above discussion, the orders under challenge cannot be sustained and are liable to be quashed”.

11. The order of termination dated 13.05.2015 (Annex.5) clearly shows that the petitioner's services are being terminated on account of his questionable integrity, thus the same is punitive in nature, therefore, the enquiry was required to be held in the present case. Since the respondents have passed the order without holding an enquiry, therefore, the same is not sustainable in the eye of law. The order dated 13.05.2015 could not have been passed by taking recourse under Clause 8 (iii) & (iv) of the Standing Orders, 1965.

12. In the considered opinion of this Court, the order dated 13.05.2015 is not sustainable in the eye of law as the petitioner's probationary services have been terminated without taking recourse available under the law.

13. In view of the discussions made here-in-above, the present writ petition merits acceptance and the same is allowed. The impugned order dated 13.05.2015, whereby the petitioner's



probationary services were terminated is quashed and set aside. However, the respondents are given liberty to pass a fresh order in the matter if so warranted, after following the principles of natural justice and the procedure established by the law.

14. The stay application and other pending applications, if any, also stand disposed of.

15. No Order as to costs.

(VINIT KUMAR MATHUR),J

273-SanjayS/-