

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12052 of 2024

Chandan Prakash Pandey Son of Shri J.P. Pandey, ex. Assistant Commissioner, Central Goods Service Tax and Central Excise, Ranchi zone, 1st floor, Central Revenue building (Annexo, Birchand Patel path,P.S - Kotwali, District - Patna, Pin code 800001, resident of Maurya vihar apartment, flat no.204, Maurya path, Baily Road, Khajpura P.S - Shastri Nagar, District - Patna - 800014 (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the Secretary (Revenue), Government of India, Ministry of Finance, Department of Revenue, New Delhi - 110021.
2. The Under Secretary to the Government of India, Department of Revenue, Ministry of finance, Central Board of Indirect Taxes and Customs Office of the Chief Vigilance Officer, 6th floor, Hudco Vishala Building, Bhikaji cama place, New Delhi -110066.
3. The Chairman, Central Board of Excise and Customs, Ministry of Finance, Government of India, North Block, New Delhi -110021.
4. The Chief Commissioner, Central Goods Service Tax and Central Excise (Ranchi zone), Central Revenue Building, Birchand Patel Path, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 11330 of 2024

Chandan Prakash Pandey son of Shri J.P. Pandey, ex. Assistant Commissioner, Central Goods Service Tax and Central Excise, Ranchi zone, 1st floor, Central Revenue building (Annexe, Birchand Patel path, P.S-Kotwali, District- Patna, Patna, Pin code 800001, resident of Maurya vihar apartment, flat no.204, Maurya path, Baily road, P.S.- Shastri Nagar, District- Patna,Khajpura-800014 (Bihar).

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the Chief Vigilance Officer, 6th floor, Hudco Vishala Building, Bhikaji cama place, New Delhi-110066

3. The Chairman, Central Board of Excise and Customs, Ministry of Finance, Government of India, North Block, New Delhi-110021.
4. The Chief Commissioner, Central Goods Service Tax and Central Excise (Ranchi zone), Central Revenue Building, Birchand Patel Path, Patna-800001 (Bihar).

... .. Respondent/s

Appearance:

(In Civil Writ Jurisdiction Case No. 12052 of 2024)

For the Petitioner/s : Mr. Munna Pd Dixit, Advocate

For the Respondent/s : Dr. K.N. Singh, ASG

Mr. Anshuman, Sr. SC, CGST & CX

Mr. Shivaditya Dhari Sinha, Advocate

(In Civil Writ Jurisdiction Case No. 11330 of 2024)

For the Petitioner/s : Mr. Munna Pd Dixit, Advocate

For the Respondent/s : Dr. K.N. Singh, ASG

Mr. Anshuman, Sr. SC, CGST & CX

Mr. Shivaditya Dhari Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 03.04.2026

The aforesaid two writ petitions have been filed against the common order dated 08.04.2024 passed by the learned Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Ld. CAT') in O.A. No. 050/00105/2021 with O.A. No. 050/00362/2020 whereby and whereunder both the said original applications have been dismissed being devoid of merit, hence these two writ petitions have been heard together and are being disposed off by the present common judgment.



CWJC No. 11330 of 2024

2. This writ petition *i.e.* CWJC No. 11330 of 2024 arises out of O.A. No. 050/00105/2021. The brief facts of the case, according to the petitioner herein is that he was appointed through the Civil Services Examination, 2015 in Group 'A' Service *vide* appointment letter dated 08.12.2016 on the following terms and conditions:-

“(i) Your appointment will be subject to all the rules applicable to the Members of the IRS (C&CE) Group "A".

(ii) You will be required to work in the Customs, Central Excise and Narcotics wings of the Central Board of Excise & Customs (CBEC) for training or otherwise as and when required.

(iii) You will draw pay in the Level 10 of Pay Matrix (corresponding to Pre-Revised Pay Band - 3 (Rs. 15,600-39,100) plus Grade Pay of Rs. 5400/-) in the manner as laid down in CCS (Revised Pay) Rule 2016 and other Government instructions issued on the subject.

(iv) You will be on probation for a period of two years. During this period you will undergo theoretical and practical training in the working of the Customs, Central Excise and Narcotics wings of CBEC in the National Academy of Customs, Excise & Narcotics (NACEN), Faridabad and its Regional Training Institute, Bhandup, Mumbai and also in the field formations of CBEC that will be indicated in the due course by DG, NACEN and will have to pass Part I and Part II of the Departmental Examination in Customs & Central Excise laws and other related subjects within the probationary period of two years. The grant of Increment shall be in accordance with the extant rules/orders of the Government of India.



(v) The period of probation may be extended at the discretion of Government, if you do not pass the Departmental Examinations within the prescribed time or for any other reason, in accordance with the orders or instructions issued by the Government from time to time in this regard. Repeated failure to pass the Departmental Examination within the extended period of probation will entail loss of employment.

(vi) The Government may discharge you from service at any time during the period of probation, if, in the opinion of the Government your work or conduct during this period is considered unsatisfactory, or shows that you are unlikely to become an efficient officer.

(vii) You will be considered for confirmation in service on successful completion of the period of probation and also if you are found fit in every respect for confirmation.

(viii) It should be clearly understood that your appointment is subject to any change in the constitution of the Indian Revenue Service /Customs & Central Excise) Group 'A' which the Union Government may think proper to make from time to time and that you will have no claims for compensation in consequence of any such change.

(ix) You will be liable for transfer to any station within the Union of India.

(x) No person:

(a) Who has entered into or contracted a marriage with a person having a spouse living: or

(b) Who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service.

Provided that where the Central Government is satisfied that such marriage is permissible under the personal law, applicable to such person and the other party to the marriage and there are other grounds for doing so, exempt any person from the operation of this rule.



(xi) *In accordance with instructions contained in the Department of Personnel & Training's O.M. No.13018/8/96-AIS) dt. 23.04.97, you cannot seek exemption from probationary training to appear in the next Civil Service Examination. Further, no exemption shall be granted to abstain from probationary training for any reason.*

(xii) *If you are a member of Scheduled Caste/ Scheduled Tribe/ Other Backward Class and have changed your religion or if you change your religion at any time in future, you should inform the appointing authority immediately about the change.*

(xiii) *Officers appointed as a result of an earlier examination shall rank senior to officers appointed as result of subsequent examination.*

(xiv) *Your service will be governed in accordance with the Indian Revenue Service (Customs and Central Excise) Group 'A' Rules, 2016.*

(xv) *In case the enquiry as envisaged under Rule 20 of the Civil Services Examination Rules is pending in your case, your appointment will be subject to being found suitable on conclusion of such enquiry.*

(xvi) *It may be noted that the Government has Implemented a new structured defined Contributory Pension system for new entrants to the All India Service/ Central Government Service w.e.f. 1st January, 2004 replacing the earlier system of defined Benefit pension system. Accordingly, wherever applicable, on joining you will be covered by the said new Pension system.*

(xvii) *In case, at any stage, it is found that any Certificate/ Document/Testimonial etc. having a bearing on your eligibility, as furnished by you is not in order, your appointment shall be cancelled forthwith without prejudice to any punitive action under the relevant rules.”*

3. It is the case of the petitioner that he had joined the services on 22.12.2016 at National Academy of Customs, Excise &



Narcotics (hereinafter referred to as 'NACEN') at Faridabad for training which he had completed in the month of July, 2017, whereafter the petitioner herein was directed to join at Regional Training Center, Bhandup at Mumbai where he reported on 14.07.2017 and there he completed his training successfully. The petitioner was then sent for field formations at different places in the country and finally after successfully completing the mandatory training, he joined at Patna on 12.12.2017. Thereafter, the petitioner was independently posted on the post of Assistant Commissioner, Anti-Evasion (Headquarters), Patna in the month of May, 2018.

4. The petitioner was then sent by the respondents to appear in Part-I and Part-II of the departmental examinations in Customs and Central Excise Laws and other related subjects as per Clause (iv) of the appointment letter dated 08.12.2016 which was held in between 03.07.2018 to 09.07.2018, however barring Paper-X, the petitioner is stated to have passed in all the papers *vide* result dated 31.08.2018. On 30.11.2018, the petitioner had appeared and cleared the said Paper-X also. The petitioner is stated to have completed all the requisite and mandatory training and he also cleared the mandatory Part-I and Part-II examinations before expiry of the probation period, however in the meantime one Md.



Shoaibuddin, Superintendent (Anti-Evasion) and the petitioner were implicated in one criminal case lodged by the Central Bureau of Investigation on 27.06.2019 bearing RC No. 023 2019, A 0007 under Section 7 of the Prevention of Corruption Act, 1988 and Section 120 B of the Indian Penal Code. The petitioner was arrested on 27.06.2019 and was sent to judicial custody on 28.06.2019. On 01.08.2019, the petitioner and the said Md. Shoaibuddin were placed under deemed suspension on account of detention exceeding 48 hours, with effect from 27.06.2019, however both the petitioner and the said Md. Shoaibuddin were enlarged on bail on 28.08.2019. The petitioner had then reported for duty on 30.08.2019 as also had submitted an application on 04.09.2019 for revocation of deemed suspension but instead of revoking the suspension, the respondents herein had issued orders dated 19.09.2019, 18.03.2020 and 14.09.2020 extending the period of deemed suspension while the suspension of the said Md. Shoaibuddin was revoked on 14.09.2020. The petitioner had then filed an original application bearing O.A. No. 362 of 2020 challenging his suspension as also the extension orders but the same was admitted for hearing. Nonetheless, the petitioner suddenly received an order dt. 05.2.2021, issued by the respondent No.2, whereby the services of the petitioner has been ordered to be



terminated in view of Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965 (hereinafter referred to as the 'Rules, 1965'), which was challenged by the petitioner by filing the connected original applications bearing O.A. No. 050/00105/2021, before the Ld. CAT, however the same have stood dismissed by the impugned order dated 08.04.2024, which has been challenged by the petitioner by way of the present writ petition.

5. The learned counsel for the petitioner, Sri. M.P. Dixit has at the outset submitted that a bare perusal of the appointment letter dated 08.12.2016 would show that the probation period is of two years during which the probationer has to undergo theoretical and practical training at NACEN, Faridabad and at Regional Training Center, Bhandup at Mumbai as also has to pass Part-I and Part-II of the departmental examinations within the said probation period of two years. It is thus submitted that the petitioner has not only completed his training successfully but has also passed Part-I and Part-II examinations within the probation period of two years. The Ld. counsel has next referred to the appointment letter dated 08.12.2016, more particularly Clause (v) of the terms and conditions to submit that the period of probation can be extended at the discretion of the Government if the probationer does not



pass the departmental examinations within the prescribed time or for any other reason, in accordance with the orders or instructions issued by the Government from time to time and reference has also been made to Clause (vi) of the terms and conditions which prescribes that the Government may discharge a probationer from service at any time during the period of probation, if in the opinion of the Government the work or conduct of the probationer during the said period is considered unsatisfactory or it is seen that such probationer is unlikely to become an efficient officer.

6. The Ld. counsel for the petitioner has also referred to the Office Memorandum dated 11.03.2019, which contains the Master Circular on Probation and Confirmation in Central Services. The Master Circular provides that save for exceptional reasons, probation should not be extended for more than a year and in no circumstance an employee should be kept on probation for more than double the normal period and the probation reports for the whole period should be considered by a Board of senior officers for determining whether the probationer concerned is fit to be confirmed in service or not, apart from an opportunity being given to the probationer in case the probationer is being discharged from service. The learned counsel has also referred to Clause 27 of the Master Circular to contend that the same postulates that an officer



will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation.

7. Reference has also been made by the learned counsel for the petitioner to the Office Memorandum dated 02.07.2018, containing the Master Circular on Probation and Confirmation in Central Services to contend that Clause 5 thereof also speaks of probationer being given an opportunity to work under more than one officer during the probation period and the probation reports for the whole period should be then considered by a Board of senior officers for determining as to whether the probationer concerned is fit to be confirmed in service. It is stated by the Ld. counsel for the petitioner that all the aforesaid requirements have not been fulfilled and by-passing the same, the respondent No.2 has passed the order dt. 05.02.2021, by which the services of the petitioner has been terminated forthwith. Thus, it is submitted that the order of termination dated 05.2.2021 is punitive and stigmatic.

8. The Ld. counsel for the petitioner has further referred to paragraph No.11 of the written statement filed by the respondents before the Ld. CAT, specially paragraph No.11 thereof to submit that for the first time before the Ld. CAT the respondents have



come out with the reasons for terminating the services of the petitioner *i.e.* firstly, he had not successfully completed his training and had remained unauthorizedly absent during his furbisher course, hence he was not confirmed in the service along with his batchmates and secondly, the petitioner lacks moral responsibility and was caught red handed taking bribe which contravenes the Government's policy towards zero tolerance to corruption, hence the case of the petitioner was submitted to the appointing authority who did not find the petitioner to be fit to remain in service, hence by invoking Rule 5(1) of the Rules, 1965 read with paragraph No.1, Clause (vi) of the offer of appointment and paragraph No.6(3) of the Indian Revenue Service (Customs and Central Excise) Group 'A' Rules, 2016 (hereinafter referred to as the 'Rules, 2016') has ordered for discharge of the petitioner from services *vide* order dated 05.02.2021. It is thus submitted that the expression 'unauthorized absence' is stigmatic in nature and, therefore, he ought to have been given an opportunity of hearing prior to passing of the impugned order dated 05.02.2021. It is further submitted that the furbisher courses were held during the following periods:-

(i) 13.08.2018 to 07.09.2018

(ii) 14.10.2019 to 08.11.2019

(iii) 16.11.2020 to 04.12.2020



(iv) 27.06.2019 to 28.09.2019

9. It is pointed out by the Ld. Counsel for the petitioner that the Additional Director General, NACEN, Faridabad *vide* letters dated 18.09.2019, 01.08.2019 and 20.10.2020 had requested the respondents to relieve the petitioner for the furbisher course but the Chief Commissioner had not passed any order relieving the petitioner to complete the furbisher course, hence it is submitted that the petitioner was precluded from completing his furbisher course, for no fault of his.

10. Now coming to the other issue regarding the petitioner having been caught red handed while taking bribe, it is submitted by the learned counsel for the petitioner that the same is also stigmatic, inasmuch as the petitioner has been treated to be guilty although the criminal case lodged against him is still pending consideration and till date the petitioner has not been convicted.

11. At this juncture, the learned counsel for the petitioner has referred to the order dated 18.03.2020, issued by the Under Secretary to the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, New Delhi to submit that the said order speaks of the draft charge-sheet under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 (hereinafter



referred to as the 'Rules, 1965') against the petitioner being under consideration, hence it is submitted that the departmental proceedings *qua* the petitioner was under contemplation and rightly so, therefore the services of the petitioner could not have been terminated without resorting to a full-fledged departmental proceedings. It is contended that the provisions of the Rules, 1965 are not applicable to the petitioner herein inasmuch Rule 2(g) thereof prescribes that the said Rule shall not apply to such other category of employees as may be specified by the Central Government by notification published in the Official Gazette and in view of notification dated 22.04.2016 issued by the Ministry of Finance (Department of Revenue) whereby and whereunder the Indian Revenue Services (Customs of Central Excise) Group-A Rules, 2016 have been framed. Thus, the provision of law under which the services of the petitioner has been terminated is not applicable to the petitioner, thus the impugned order dated 05.02.2021, is itself *void ab initio*.

12. The learned counsel for the petitioner has next contended that the impugned order passed by the Ld. CAT dated 08.04.2024 is perverse, inasmuch as on the one hand it has been held that the petitioner was no longer on probation, however on the other hand, it has also been held that there was no order of confirmation,



nonetheless the Ld. CAT has come to a finding that since the petitioner was not a regular government servant, hence his claim for an inquiry under the Rules, 1965 is not tenable and further the Ld. CAT has also erred by holding that the Rules, 1965 do not specifically exclude the probationers or persons on probation and since the probation of the petitioner was not extended beyond two years and further no order was issued on confirmation of his services, hence the petitioner's status was governed under the Rules, 1965, thus there was no illegality in termination of his services under Rule 5(1) of the said Rules, 1965.

13. The learned counsel for the petitioner has referred to a judgment rendered by the Hon'ble Apex Court in the case of ***Karnataka State Road Transport Corporation and Another vs. S. Manjunath***, reported in (2000) 5 SCC 250, paragraph No. 14 whereof is reproduced herein below:-

“14. As indicated by us, the Regulation deals with two different categories of cases - one about the probation of an appointee other than by way of promotion and the other relating to officiation of a person appointed on promotion. The similarity of purpose and identity of object apart, of such provision, there is an obvious difference and positive distinction disclosed in the manner they have to be actually dealt with. The deliberate use of two different phraseology probation and officiation cannot be so lightly ignored obliterating the substantial variation in the method of handling such categories of persons envisaged by the Regulations. The mere fact that a reference is made



to sub regulation (3) also in the later part of sub regulation (8) of the Regulation could not be used to apply all the provisions relating to the category of appointees on officiation to the other category of appointees on probation. The stipulation in sub regulation (8) of the Regulation when making the passing of an order, a condition precedent for satisfactory completion specifically refers only to the completion of period of officiation. Similarly, notwithstanding a reference made to sub regulation (3) alongside sub regulation (4), in stipulating the consequences of any delay in making an order declaring satisfactory completion, the reference is confined only to deemed satisfaction and completion of the period of officiation, and not of probation. Sub regulation (9) of the Regulation insofar as it provides for confirmation as a sequel to declaration, only deals with a promotee to a temporary post and not of the other category. While dealing with the termination of a candidate, not found suitable for the post, sub regulation (3) of the Regulation envisage such termination being made, at any time within the period of probation, and not at any time after the completion of such maximum period of probation. Consequently, the cases on hand also would fall within the category of cases dealt with in Dayaram Dayal case (supra) and Wasim Begs case (supra) and the services of the respondents could not be put an end to except by means of departmental disciplinary proceedings, after following the mandatory requirements of law. Therefore, the High Court cannot be faulted for interfering with the orders of termination of the services of the respondents.”

14. The learned counsel for the petitioner has also referred to a judgment rendered in the case of ***Ratnesh Kumar Choudhary vs. Indira Gandhi Institute of Medical Sciences, Patna, Bihar &***



Ors. reported in **(2015) 15 SCC 151**, paragraph Nos. 26 & 27

whereof are reproduced herein below:-

“26. In the facts of Palak Modi case, the Court proceeded to state that there is a marked distinction between the concepts of satisfactory completion of probation and successful passing of the training/test held during or at the end of the period of probation, which are sine qua non for confirmation of a probationer and the Bank’s right to punish a probationer for any defined misconduct, misbehaviour or misdemeanour. In a given case, the competent authority may, while deciding the issue of suitability of the probationer to be confirmed, ignore the act(s) of misconduct and terminate his service without casting any aspersion or stigma which may adversely affect his future prospects but, if the misconduct/misdemeanour constitutes the basis of the final decision taken by the competent authority to dispense with the service of the probationer albeit by a non-stigmatic order, the Court can lift the veil and declare that in the garb of termination simpliciter, the employer has punished the employee for an act of misconduct.

27. In the case at hand, it is clear as crystal that on the basis of a complaint made by a member of the Legislative Assembly, an enquiry was directed to be held. It has been innocuously stated that the complaint was relating to illegal selection on the ground that the appellant did not possess the requisite qualification and was appointed to the post of Chest Therapist. The report that was submitted by the Cabinet (Vigilance) Department eloquently states about the conduct and character of the appellant. The stand taken in the counter affidavit indicates about the behaviour of the appellant. It is also noticeable that the authorities after issuing the notice to show cause and obtaining a reply from the delinquent employee did not supply the documents. Be that as it may, no regular enquiry was held and he was visited with the punishment of dismissal. It is well settled in law, if an ex parte enquiry



is held behind the back of the delinquent employee and there are stigmatic remarks that would constitute foundation and not the motive. Therefore, when the enquiry commenced and thereafter without framing of charges or without holding an enquiry the delinquent employee was dismissed, definitely, there is clear violation of principles of natural justice. It cannot be equated with a situation of dropping of the disciplinary proceedings and passing an order of termination simpliciter. In that event it would have been motive and could not have travelled to the realm of the foundation. We may hasten to add that had the appellant would have been visited with minor punishment, the matter possibly would have been totally different. That is not the case. It is also not the case that he was terminated solely on the ground of earlier punishment. In fact, he continued in service thereafter. As the report would reflect that there are many an allegation subsequent to the imposition of punishment relating to his conduct, misbehaviour and disobedience. The Vigilance Department, in fact, had conducted an enquiry behind the back of the appellant. The stigma has been cast in view of the report received by the Central Vigilance Commission which was ex parte and when that was put to the delinquent employee, holding of a regular enquiry was imperative. It was not an enquiry only to find out that he did not possess the requisite qualification. Had that been so, the matter would have been altogether different. The allegations in the report of the Vigilance Department pertain to his misbehaviour, conduct and his dealing with the officers and the same also gets accentuated by the stand taken in the counter affidavit. Thus, by no stretch of imagination it can be accepted that it is termination simpliciter. The Division Bench has expressed the view that no departmental enquiry was required to be held as it was only an enquiry to find out the necessary qualification for the post of Chest Therapist. Had the factual score been so, the said analysis would have been treated as correct, but unfortunately the exposition of factual matrix is absolutely different. Under such circumstances, it is



extremely difficult to concur with the view expressed by the Division Bench.”

15. Lastly, the learned counsel for the petitioner has referred to a judgment rendered by the Hon’ble Apex Court in the case of ***V.P. Ahuja vs. State of Punjab and Others*** reported in **(2000) 3 SCC 239**, paragraph No.7 whereof is reproduced hereinbelow:

“7. A probationer, like a temporary servant, is also entitled to certain protection and his services cannot be terminated arbitrarily, nor can those services be terminated in a punitive manner without complying with the principles of natural justice.”

16. *Per contra*, the learned Additional Solicitor General of India, Dr. K.N. Singh has submitted that the training of the officer trainees of 68th Batch to which the petitioner belongs commenced on 19.12.2016 at NACEN, Faridabad, whereafter the officer trainees of the 68th Batch were directed *vide* letter dated 02.12.2017 to report to the Joint Chief Commissioner for the purposes of training on or before 11.12.2017 and then the furbisher course for the 68th Batch of officer trainees had commenced on 13.08.2018 which was to be concluded on 07.09.2018, however during the relieving formalities, attendance records of all the officer trainees of the 68th Batch was compiled and it was noticed that several officers had remained absent for a specific period of time during the furbisher course and eight of such officers had less



than 75 % attendance during the entire furbisher course and were unauthorizedly absent which amounts to indiscipline on the part of the said eight officer trainees. The petitioner was also one of them, hence he was not given furbisher course completion certificate. The petitioner and his controlling authority were informed that the furbisher course for the petitioner would be repeated next year with the furbisher course of the next Batch *i.e.* 69th Batch, however, in the meantime the petitioner was caught red handed by the CBI accepting a bribe of Rs. 2.5 lakhs on 27.06.2019, leading to the CBI, Anti-Corruption Bureau, Patna registering a case bearing RC No. 023 2019 A 0007, whereafter the petitioner was arrested on 27.06.2019 and was sent to judicial custody leading to him being placed under suspension *vide* letter dated 01.08.2019 with effect from 27.06.2019. The suspension of the petitioner was reviewed and extended for further period of 180 days each time, *vide* orders dated 19.9.2019, 18.3.2020 and 14.9.2020. Since the petitioner was on suspension, he did not join the furbisher course. Thereafter, the case of the petitioner was examined and it was observed that he has not successfully completed his training & had remained unauthorizedly absent during his furbisher course, thus his services were not confirmed along with his batchmates.



17. The learned ASG appearing for the respondents has further submitted that the respondents observed that the petitioner lacks moral responsibilities, inasmuch as he was caught red handed taking bribe which contravenes the government's policy towards zero tolerance to corruption, hence the case of the petitioner was placed before the appointing authority who did not find the petitioner fit to remain in service, thus by invoking Rule 5(1) of the Rules, 1965 read with paragraph No.1, Clause (vi) of the offer of appointment issued to the petitioner & paragraph No. 6(3) of the Rules, 2016, the appointing authority ordered for discharge of the petitioner from service *vide* order dated 05.02.2021. It is thus submitted that since the petitioner was not confirmed in service as on 05.02.2021, he was a temporary employee to be governed by the Rules, 1965. It is stated that a temporary employee has no right on the post held by him and cannot claim so, thus the department is well within its right to discharge the petitioner from service in view of his indiscipline.

18. The learned ASG has next submitted that it is a well settled law that the department is not bound to give any show cause notice to remove a temporary employee from service in terms of Rule 5(1) of the Rules, 1965, hence there is no question of violation of the principles of natural justice in such cases. In this regard, the



learned ASG has referred to a judgment rendered by the Hon'ble Apex Court in the case of ***High Court of Judicature at Patna vs. Pandey Madan Mohan Prasad Sinha and Others***, reported in **(1997) 10 SCC 409**, paragraph Nos. 6 and 9 whereof are reproduced herein below:-

“6. The service record of Respondent 1 contains the following remarks:

1976-77 (C.R. of Hazaribagh) - “Outturn was poor”

1977-78(C.R. of Patna)- “An officer of below average merit”

Remark by Court- “Should improve his image”.

1979-80 (C.R. of Patna)- “Outturn poor, so was the quality of his orders. Did not enjoy the confidence of the Bar and litigant. Integrity questionable.”

1981-82 (C.R. of Sitamarhi) - “Injunction order passed in T.S. No. 81 of 1979 was based on extraneous reasons.”

Remarks by the Court – “He did not enjoy good reputation as Execution Munsif, Patna.”

“Further, in course of inspection of Sitamarhi Judgeship in May 1983, by an Hon'ble Judge of this Court, the conduct & antecedents of Shri Sinha at that station were reported to be very much undesirable & unbecoming of a Judicial Officer. Apart from the complaints touching his integrity with respect to his judicial work, serious complaints regarding his character and morality were also received. It was reported that he used to drink heavily & play “flush” in the town with different rich persons.” (pp. 7-8)

The remarks for the years 1976-77 and 1979-80 had been communicated to Respondent 1 prior to the High Court took the decision on 19-6-1985 that Respondent 1 is not fit for retention in service. The other remarks mentioned about were, however, communicated to Respondent 1 after



the said decision had been taken. The question is whether the non-communication of the said adverse remarks vitiates the action that has been taken against Respondent 1, viz., termination of his services on the ground that he was not fit for confirmation on the post of Munsif. As regards a probationer, the law is well settled that he does not have a right to hold the post during the period of probation. The position of a probationer cannot be equated with that of an employee who has been substantively appointed on a post and has a right to hold that post. An order terminating the services of a probationer can be questioned only if it is shown that it has been passed arbitrarily or has been passed by way of punishment without complying with the requirements of Article 311(2) of the Constitution. Since a probationer has no right to hold the post on which he has been appointed on probation, he cannot claim a right to be heard before an order terminating his services is passed. The obligation to communicate the adverse material to a person before taking action against him on the basis of the said material is a facet of the principles of natural justice. But principles of natural justice have no application in the case of termination of the services of a probationer during the period of probation since he has no right to hold the post. It is, therefore, not possible to hold that there is an obligation to communicate the adverse material to a probationer before a decision is taken on the basis of the said material that he is not fit for being retained in service. Such material can be relied upon to show that such a decision does not suffer from the vice of arbitrariness and is not capricious. In this context it may be mentioned that even with respect to persons who have been substantively appointed on a post and have a right to hold that post, it has been held that the failure to communicate the adverse remarks in the service record would not vitiate the order of compulsory retirement. (See: Union of India v. M.E. Reddy [(1980) 2 SCC 15] and Baikuntha Nath Das v. Chief Distt. Medical Officer.



9. In support of the other reason given by the High Court that the order terminating the services of Respondent 1 was passed by way of punishment, Shri Swarup has placed reliance on the decision of this Court in Anoop Jaiswal v. Govt. of India [(1984) 2 SCC 369]. We have carefully perused the said decision. It has no application to the facts of the present case. In that case this Court, after considering the relevant material, came to the conclusion that the real foundation for the action which was taken against the employee was the alleged act of misconduct in having instigated other trainees in not coming to P.T. in time on 22-6-1981. It was held that since the said act of misconduct was the foundation of the order, the order of termination was passed by way of punishment and since the requirements of Article 311(2) of the Constitution were not complied with, the said order was set aside. We cannot say so in the facts of the present case. Here the decision to terminate the services of Respondent 1 was taken by the High Court after considering the entries in the service record of Respondent 1 covering the entire period of probation. It cannot be said that the said decision of the High Court was founded on any particular act of misconduct. Merely because in the letter dated 5-3-1986, reference has been made to the complaints touching the integrity of Respondent 1 with respect to his judicial work and complaints regarding his character and morality and that he used to drink heavily and play "flush" in the town with different rich persons does not lead to the inference that the order was passed by way of punishment for particular acts of misconduct. These reports were taken into account for assessing the performance of Respondent 1 during the period of probation and for determining whether he was fit for confirmation on the post of Munsif. The said remarks, in our opinion, could legitimately form the basis for deciding whether Respondent 1 was suitable for retention in service or not. It is, therefore, not possible to hold that the order for termination of the services of Respondent 1 dated 28-8-1986 was passed by way of punishment for misconduct."



It is thus submitted that the Hon'ble Apex Court has held that the principles of natural justice have no application in a case of termination of the services of a probationer during the period of probation since he has no right to hold the post and there is no obligation to communicate the adverse material to a probationer before a decision is taken on the basis of the said material that he is not fit to be retained in service.

19. The learned ASG has also relied on a judgment rendered by the Hon'ble Apex Court in the case of ***Rajasthan High Court vs. Ved Priya and another***, reported in **2020 SCC OnLine SC 337**, paragraph Nos.19 and 21 whereof are reproduced herein below:-

“19. Probationers have no indefeasible right to continue in employment until confirmed, and they can be relieved by the competent authority if found unsuitable. It is only in a very limited category of cases that such probationers can seek protection under the principles of natural justice, say when they are “removed” in a manner which prejudices their future prospects in alternate fields or casts aspersions on their character or violates their constitutional rights. In such cases of “stigmatic” removal only that a reasonable opportunity of hearing is sine qua non. Way back in Parshotam Lal Dhingra v. Union of India [AIR 1958 SC 36], a Constitution Bench opined that: (AIR p. 49, para 28)

“28. ... In short, if the termination of service is founded on the right flowing from contract or the service rules then, prima facie, the termination is not a punishment and carries with it no evil consequences



and so Article 311 is not attracted. But even if the Government has, by contract or under the rules, the right to terminate the employment without going through the procedure prescribed for inflicting the punishment of dismissal or removal or reduction in rank, the Government may, nevertheless, choose to punish the servant and if the termination of service is sought to be founded on misconduct, negligence, inefficiency or other disqualification, then it is a punishment and the requirements of Article 311 must be complied with.”

21. True it is that the form of an order is not crucial to determine whether it is simpliciter or punitive in nature. An order of termination of service though innocuously worded may, in the facts and circumstances of a peculiar case, also be aimed at punishing the official on probation and in that case it would undoubtedly be an infraction of Article 311 of the Constitution. The Court in the process of judicial review of such order can always lift the veil to find out as to whether or not the order was meant to visit the probationer with penal consequences. If the Court finds that the real motive behind the order was to “punish” the official, it may always strike down the same for want of reasonable opportunity of being heard.”

It is thus contended that probationers have no indefeasible right to continue in employment until confirmed and they can be relieved by the competent authority, if found unsuitable.

20. The Ld. ASG has next contended that para No. 27 of the DOPT’s O.M. dt. 11.03.2019, Rule 5(1) of the Rules, 1965, para No. 1 (vi) and (vii) of the offer of appointment dated 08.12.2016 and Rule 6(3) of the Rules, 2016 are fully applicable in the present case and accordingly the services of the petitioner have been



terminated, hence there is no infirmity in the procedure followed while issuing the impugned order dated 05.02.2021, by the respondent No.2. It is also submitted that neither there is any perversity nor irrationality nor impropriety in the judgment dated 08.04.2024, passed by the Ld. CAT, hence the present petition is fit to be dismissed. It is contended that the order of termination dated 05.02.2021 is neither stigmatic nor punitive, inasmuch as no punishment has been awarded *qua* the petitioner herein, hence the provision of Article 311 of the Constitution of India will not be attracted. Lastly, it is submitted that since the petitioner had joined the services on 19.12.2016, therefore, as per the guidelines of the DOPT issued *vide* O.M. dated 11.03.2019, the petitioner would be deemed to have successfully completed the probation period, if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation, which in the present case would be 12.02.2021, however the services of the petitioner have stood terminated *vide* order dated 05.2.2021, i.e. before 12.02.2021, thus there is no question of deemed completion of the probation period.

21. We have heard the learned counsel for the parties and gone through the materials available on record.



22. The facts of the present case lie in a narrow compass. The petitioner was given an offer of appointment *vide* letter dated 08.12.2016 as a probationer in the Indian Revenue Service (Customs and Central Excise) Group-A on the basis of the result of the Civil Service Examination 2015 subject to the terms and conditions mentioned therein. For the purposes of the present case, Clause (iv) to Clause (vi) and Clause (xiv) of the offer of appointment dated 08.12.2016 would be relevant. According to the said clauses, the probation will be for a period of two years, during which period the probationer has to undergo training and will have to pass Part-I and Part-II examinations within the said probation period of two years, however the period of probation can be extended at the discretion of the Government not only for not passing the departmental examination within the prescribed time but for any other reasons and further the Government can also discharge the probationer from service at any time during the period of probation, if in the opinion of the Govt., the work or conduct of such probationer is considered unsatisfactory or it is seen that the probationer is unlikely to become an efficient officer. Clause (xiv) postulates that the service of such probationer will be governed by the Indian Revenue Service (Customs and Central



Excise) Group 'A' Rules, 2016. We deem fit and proper to reproduce Rule 6 of the Rules, 2016 herein below:

“6. Probation and confirmation.—(1) *Every officer on appointment to the Service, either by direct recruitment or by promotion in Junior Time Scale shall be on probation for a period of two years:*

Provided that the Controlling Authority may extend the period of probation in accordance with the instructions issued by the Central Government from time to time:

Provided further that any decision for extension of a probation period shall be taken ordinarily within eight weeks after expiry of the initial period of probation and communicated in writing to the concerned officer together with the reasons for so doing within the said period.

(2) On completion of the period of probation, or any extension thereof, officers shall, if considered fit for permanent appointment, be retained in their posts on regular basis and be confirmed.

(3) If, during the period of probation, or any extension thereof, as the case may be, the Controlling Authority is of the opinion that an officer is not fit for permanent appointment, it may discharge or revert the officer to the post held by him prior to his appointment in the service, as the case may be.

(4) During the period of probation, or any extension thereof, an officer may be required by the Controlling Authority to undergo such course of training and instructions and to pass examinations, and tests (including examination in Hindi) as it may deem fit, as a condition to satisfactory completion of the probation.

(5) As regards other matters relating to probation, the members of the Service shall be governed by the instructions issued by the Central Government in this regard from time to time.”



23. Now, we may also gainfully reproduce Rule 5 of the Rules, 1965 which is reproduced herein below:-

“5. Termination of temporary service- 1(a) *The services of a temporary Government Servant shall be liable to termination at any time by a notice in writing given either by the Government Servant to the appointing authority or by the appointing authority to the Government Servant;*
(b) *the period of such notice shall be one month:*

Provided that the services of any such Government Servant may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowance for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month.”

24. Now coming back to the facts of the present case, we find that pursuant to the offer of appointment dated 08.12.2016, the petitioner is stated to have joined services on 19.12.2016 and purportedly after completion of training he was posted at Patna at the Anti-Evasion Branch, CGST and CX (Headquarters), Patna and was then given independent charge of the post of Assistant Commissioner, Anti-Evasion Branch, CGST and CX Headquarters Patna, however in the meantime he was caught red handed by the CBI on 27.06.2019 while taking bribe and consequently arrested on 27.06.2019, whereupon he was sent to judicial custody on 28.06.2019, leading to him being placed under deemed suspension



vide order dated 01.08.2019 with effect from 27.06.2019, however he was enlarged on bail on 28.08.2019 but his suspension was not revoked and the same was extended from time to time till passing of the order challenged by the petitioner dated 05.02.2021 whereby and whereunder the services of the petitioner has been terminated. It would be apt to reproduce the order dated 05.02.2021 herein below:-

“In pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, the President hereby terminates forthwith the services of Shri Chandan Prakash Pandey (Date of Birth 12.05.1987) from Indian Revenue Service (Customs & Central Excise) and directs that he shall be entitled to claim a sum equivalent to the amount of his pay and allowances for a period of one month (in lieu of the period of notice) calculated at the same rate at which he was drawing them immediately before the date on which this order is served on or, as the case may be, tendered to him.

“(By order and in the name of the President of India)”

25. A holistic reading of the terms and conditions mentioned in the offer of appointment dated 08.12.2016, Rule 5(1) of the Rules, 1965 and the provisions contained in the Rules, 2016 including Rule 6 of the said Rules, 2016 would show that the provisions regarding probation, its confirmation and discharge/termination of temporary service are unambiguous and in simple and clear words what is provided for is that any decision for extension of a



probation period shall be taken ordinarily within eight weeks after expiry of the initial period of probation of two years and if during the period of probation or any extension thereof, as the case may be, the controlling authority is of the opinion that an officer is not fit for permanent appointment, it may discharge or revert the officer to the post held by him prior to his appointment in the services, as the case may be. In fact, both Rule 6(3) of the Rules, 2016 and Rule 5(1) of the Rules, 1965 are more or less the same and do not envisage either giving any show cause prior to termination of temporary service or compliance of the principles of natural justice or furnishing any reason for terminating/ discharging the probationer. As far as the Rules, 2016 are concerned, the petitioner is admittedly governed by the same, inasmuch as Clause (xiv) of the offer of appointment dated 08.12.2016, issued to the petitioner, categorically states that the service of the petitioner shall be governed in accordance with the Rules, 2016. In fact, Rule 6(5) of the Rules, 2016 also provides that the probationers shall be governed by the instructions issued by the Central Government with regard to matters pertaining to probation and confirmation from time to time and one of such Office Memorandum is the one dated 11.03.2019, which contains



the Master Circular on Probation and Confirmation in Central Services, Clause 27 whereof is being reproduced herein below:-

“27. The date from which confirmation should be given effect is the date following the date of satisfactory completion of the prescribed period of probation or the extended period of probation, as the case may be. The decision to confirm the probationer or to extend the period of probation as the case may be should be communicated to the probationer normally within 6 to 8 weeks. Probation should not be extended for more than a year and, in no circumstance, an employee should be kept on probation for more than double the normal prescribed period of probation. The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation.”

26. A bare perusal of the said provision would show that a probationer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation. In the present case, the period of eight weeks after expiry of double the normal period of prescribed probation would have ended on 12.02.2021, however prior to that the services of the petitioner have been terminated on 05.02.2021, hence admittedly he was a probationer, not confirmed in service as on the date of termination of his services. A temporary government employee is definitely governed by the



Rules, 1965, inasmuch as the Central Government has not issued any notification exempting such categories of employees in which the petitioner falls, for non-applicability of the said Rules, 1965 apart from the fact that the Rules, 1965 do not specifically exclude probationers. Thus, we find that the petitioner's probation period had not stood completed. Clause 27 of the Master Circular unequivocally provides that a probationer shall be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation. In the present case, the said period of eight weeks after expiry of double the normal period of prescribed probation was to end on 12.02.2021, however prior to that the services of the petitioner have stood terminated on 05.02.2021. Therefore, there is no question of deemed completion of the probation period of the petitioner. In fact, the petitioner is definitely governed, both by the Rules, 1965 as also by the Rules, 2016. Consequently, we find from a bare perusal of the provisions contained in the Rules, 2016 and the Rules, 1965 that neither there is any necessity of giving show cause nor there is any requirement of holding a full-fledged regular departmental inquiry in a case of termination of the services of a probationer during the period of probation. Thus, the



order terminating the services of the petitioner dt. 5.2.2021, which is simpliciter in nature, in our considered view does not suffer from either any infirmity or illegality.

27. The present case, in our view is squarely covered by the law laid down by the Hon'ble Apex Court in the case of ***Pandit Madan Mohal Prasad Sinha*** (*supra*). As regards the judgment referred to by the learned counsel for the petitioner, rendered by the Hon'ble Apex Court in the cases of ***S Manjunath*** (*supra*), ***Rajesh Kumar Choudhary*** (*supra*) and ***V.P. Ahuja*** (*supra*), we find that the same are distinguishable in the facts and circumstances of the present case and have been aptly dealt with by the Ld. CAT in its judgment dated 08.04.2024, hence repetition is being avoided.

28. As regards non-completion of the furbisher course, we find that the petitioner could not complete the same on account of him remaining under suspension till termination of his services *vide* order dated 05.02.2021. Nonetheless, we find that the petitioner was caught red handed while taking bribe leading to the CBI lodging a criminal case against the petitioner as also he was arrested and sent to judicial custody, resulting in the petitioner remaining in custody for couple of months. Thus, all such instances can definitely be a premise for the Controlling Authority



to form an opinion that a probationer is not fit for permanent appointment, leading to right being vested with the employer to dispense with the services of such probationer. In this regard, we may refer to a judgment rendered by the Hon'ble three judges Bench of the Hon'ble Apex Court in the case of ***State of Punjab and Others vs. Sukhwinder Singh***, reported in (2005) 5 SCC 569, paragraph no. 20 whereof is reproduced herein below:-

“20. In the present case neither any formal departmental inquiry nor any preliminary fact-finding inquiry had been held and a simple order of discharge had been passed. The High Court has built an edifice on the basis of a statement made in the written statement that the respondent was a habitual absentee during his short period of service and has concluded therefrom that it was his absence from duty that weighed in the mind of the Senior Superintendent of Police as absence from duty is a misconduct. The High Court has further gone on to hold that there is direct nexus between the order of discharge of the respondent from service and his absence from duty and, therefore, the order discharging him from service will be viewed as punitive in nature calling for a regular inquiry under Rule 16.24 of the Rules. We are of the opinion that the High Court has gone completely wrong in drawing the inference that the order of discharge dated 16-3-1990 was, in fact, based upon misconduct and was, therefore, punitive in nature, which should have been preceded by a regular departmental inquiry. There cannot be any doubt that the



respondent was on probation having been appointed about eight months back. As observed in Ajit Singh v. State of Punjab [(1983) 2 SCC 217] the period of probation gives time and opportunity to the employer to watch the work, ability, efficiency, sincerity and competence of the servant and if he is found not suitable for the post, the master reserves a right to dispense with his service without anything more during or at the end of the prescribed period, which is styled as period of probation. The mere holding of preliminary inquiry where explanation is called from an employee would not make an otherwise innocuous order of discharge or termination of service punitive in nature. Therefore, the High Court was clearly in error in holding that the respondent's absence from duty was the foundation of the order, which necessitated an inquiry as envisaged under Rule 16.24(ix) of the Rules.”

Thus, we find that the order dated 05.02.2021, by which the services of the petitioner has been terminated has been passed in accordance with the provisions contained in the Rules, 1965, Rules, 2016 and O.M. dated 11.03.2019, hence the present writ petition is devoid of any merit and liable to be dismissed.

CWJC No. 12052 of 2024

29. Now coming to the second writ petition *i.e.* CWJC No. 12052 of 2024, we find from the records that the petitioner had filed an original application bearing O.A. No. 050/00362/2020 before the Ld. CAT, *inter alia* praying therein to quash the order



dated 01.08.2019 by which the petitioner had been placed under deemed suspension with effect from 27.06.2019 on account of his detention exceeding 48 hours, *i.e.* judicial custody since 27.06.2019, in connection with one criminal case lodged by the CBI bearing RC No. 023 2019 A 0007 U/s. 7 of the Prevention of Corruption Act, 1988 and Section 120 B of the IPC, which according to the petitioner has come to an end immediately upon his release on bail on 28.8.2019 in view of Rule 10 (2) (a) of the CCS (CCA) Rules, 1965.

30. The learned counsel for the petitioner submits that instead of revoking the said order of deemed suspension dated 01.08.2019, the respondent No.2 has extended the period of deemed suspension for a period of 180 days each time, *vide* orders dated 19.9.2019, 18.3.2020 and 14.9.2020. The Ld. counsel for the petitioner has relied on a judgment rendered by the Hon'ble Apex Court in the case of *Ajay Kumar Choudhary vs. Union of India and Another*, reported in **(2015) 7 SCC 291** to submit that the Hon'ble Apex Court has held therein that the currency of the suspension order should not extend beyond three months, if within this period the memorandum of charges/ charge sheet is not served on the delinquent officer/ employee and if the memorandum of charges/



charge sheet has been served, a reasoned order must be passed for extension of the suspension period.

31. *Per contra*, the learned ASG appearing for the respondents has submitted that the CBI, Anti-Corruption Bureau, Patna had registered an FIR bearing RC 023 2019 A 0007 dated 27.06.2019 under Section 7 of the Prevention of Corruption Act, 1988 and Section 120 B of the IPC against the petitioner and one other person *namely* Md. Shohibuddin, both of whom were arrested on 27.06.2019 and were sent to judicial custody on 28.06.2019. The relevant contents of the FIR states that a written complaint dated 25.06.2019 addressed to the Superintendent of Police, CBI, ACB, Patna was submitted by Shri Subodh Kumar, Hon'ble MLC, Vaishali District, S/o Shri Harinath Ray. The genuineness of the allegation contained in the said complaint was verified. The facts mentioned in the said complaint and the verification thereof discloses commission of offences under Section 120 B of Indian Penal Code and under Section 7 of Prevention of Corruption Act, 1988, hence a regular case was registered against the accused officials. Further, it was informed that the petitioner, then posted as Assistant Commissioner was caught red handed while accepting a bribe of Rs. 2.5 lakhs on 27.6.2019 with Shri Shoaibuddin, Superintendent. The searches were conducted in the office



chamber of the petitioner and Shri Shoaibuddin situated at 5th Floor, CTTC Building, Sanchar Parisar, Buddh Marg, Patna-I.

32. Thus, it is submitted by the learned ASG appearing for the respondents that since the petitioner had remained in custody for more than 48 hours, he was placed under deemed suspension *vide* order dated 01.08.2019 with effect from the date of his arrest *i.e.* 27.06.2019 and then his suspension was extended for 180 days each time, *vide* orders dated 19.09.2019, 18.03.2020 and 14.09.2020. Thereafter, sanction for prosecution was granted by the Hon'ble President *vide* order dt. 14.01.2020 *qua* the petitioner U/s. 19 (1) (a) of the Prevention of Corruption Act, 2018. It is stated that the CBI *vide* O.M. dated 11.09.2020 had advised for initiating major penalty proceedings *qua* the petitioner, however in the meantime the services of the petitioner was terminated *vide* order dt. 5.2.2021, hence no further action was taken in the matter of initiating disciplinary proceedings. It is contended that there is no provision under Rules 10 of the CCS (CCA) Rules, 1965 for automatic cessation of suspension in case the applicant has been released from custody on bail and further the suspension order has been extended from time to time with the approval of the competent authority as per the prevailing Rules, after due application of mind and due consideration of the relevant facts and



circumstances of the case of the petitioner. It is also stated that in fact suspension was extended on the basis of recommendation of the Suspension Review Committee constituted under Rule 10 (6) of the CCS (CCA) Rules, 1965 and the pending CBI case is also one of the reasons for extension of the order of suspension of the petitioner.

33. As far as, the issue of legality of the order of suspension dated 1.8.2019 & the three orders extending the suspension period of the petitioner by 180 days each, as aforesaid, is concerned we find that the case of the petitioner is fully covered by Rule 10(6) of the CCS (CCA) Rules, 1965 which reads as follows:

“10. Suspension

(6) An order of suspension made or deemed to have been made under this rule shall be reviewed by the authority which is competent to modify or revoke the suspension, before expiry of ninety days from the effective date of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.”

34. A bare perusal of the provisions contained in the Rules, 1965 would show that the same empowers the appointing authority/ disciplinary authority or any other authority empowered in that behalf by the President to place a government servant under



suspension where a case against him in respect of any criminal offence is under investigation, inquiry or trial as also a government servant shall be deemed to have been placed under suspension with effect from the date of his detention/re-detention, if he is detained in custody for a period of 48 hours and the same also provides for extension of order of suspension/ deemed suspension, hence we do not find any illegality in the said orders dated 01.08.2019, 19.09.2019, 18.03.2020 and 14.09.2020, issued by the respondents with regard to the suspension/extension of the period of suspension of the petitioner.

35. We also find that the judgment referred to by the learned counsel for the petitioner in the case of *Ajay Kumar Choudhary (supra)* is not applicable in the facts and circumstances of the present case inasmuch as the said guidelines pertains to a regular government servant who is not a probationer and moreover, in the present case admittedly no regular full-fledged departmental proceeding is required to be conducted prior to termination of the services of a temporary government servant/ probationer, as has been discussed at length hereinabove in the preceding paragraphs. Thus, the challenge of the petitioner to the aforesaid orders of suspension/extension of the period of suspension do not suffer from any infirmity, hence his challenge to the same is misplaced,



therefore the present writ petition is liable to be dismissed, being devoid of any merit.

36. Having regard to the facts and circumstances of the case and for the foregoing reasons we do not find any infirmity much less any illegality in the impugned judgment and order dated 08.01.2024 passed by the Ld. CAT in O.A. No. 050/00105/2021 and O.A. No. 050/00362/2020. Consequently, the aforesaid two writ petitions stand dismissed being bereft of any merit.

(Mohit Kumar Shah, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	AFR
CAV DATE	06.01.2026
Uploading Date	03.04.2026
Transmission Date	NA

