

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/021/898/2020

**Reserved on: 25.03.2021
Pronounced on :12.04.2021**



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

Srinivas Kasavajjula, S/o. K.V.N.S. Bhagavan,
Aged 33 years, Occ: Assistant Central Intelligence Officer-II/
Executive (Group 'C'),
(Counter Intelligence & Liasioning Scheme),
(Under the orders of termination),
O/o. the Joint Director,
Subsidiary Intelligence Bureau,
Koti, Sultan Bazar, Hyderabad – 500 001,
R/o. B-203, DSR Fortune Prime,
Gafoor Nagar, Madhapur, Hyderabad – 500 081.

...Applicant

(By Advocate: Mr. KRKV Prasad)

Vs.

1. Union of India rep. by the Secretary,
Ministry of Home Affairs,
Government of India, New Delhi.
2. The Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India, New Delhi.
3. The Joint Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs, Government of India,
Koti, Sultan Bazar, Hyderabad – 500 001.
4. The Assistant Director/ E, Subsidiary Intelligence Bureau,
Ministry of Home Affairs, Government of India,
CGO Towers, Kavadiguda, Hyderabad.

... Respondents

(By Advocate: Mr. V. Vinod Kumar, Sr. CGSC)

ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Admn. Member)

2. The OA is filed challenging the termination of the services of the applicant by invoking CCS (Temporary Service) Rules, 1965.



3. Brief facts of the case are that the applicant was appointed as Asst. Central Intelligence Officer (ACIO) grade -II in the grade pay of Rs.4200 in 2014 and had worked for 6 years beyond the stipulated period of probation after successfully completing the training. Some penalties were imposed like censure following the procedure under CCS (CCA) rules 1965. After issuing a memo of warning on 9.11.2020 in respect of an alleged misconduct of submitting false reports, an order of termination was issued without conduct of disciplinary inquiry, by invoking sub rule (1) of Rule (5) of CCS (Temporary Service) Rules 1965 by granting one month pay in lieu of notice period. Aggrieved, the OA is filed.

4. The contentions of the applicant are that he is a permanent employee selected after due process of selection against a sanctioned post. His grade pay was also increased from Rs.4200 to Rs.4600 and that since he has worked for 6 years, after successfully completing probation in 2 years period coupled with annual increments sanctioned duly, his services are deemed to be confirmed since probation has not been extended, as per DOPT memo dated 11.03.2009. Applicant submitted an appeal though not provided under the rules, but before it could be looked into he was forced to vacate the govt. quarter under the threat of penal rent. The services of the applicant have been wrongly terminated by invoking the temporary service rules. The background for the impugned order is a false complaint received

from a colleague. The basis for termination was misconduct and hence, Article 311(2) of the Constitution has to be followed. The impugned order though is a simplicitor is a penalty imposed without initiating disciplinary proceedings as provided under the rules and hence stigmatic. Earlier penalties were imposed by following the CCS (CCA) Rules, 1965. On one occasion applicant was suspended on alleged ground of producing fake medical certificates but later when the medical board found the medical certificate and ailment as genuine, the suspension was revoked. The impugned order is not on account of any deficiency in the performance during the probation period. Applicant with 33 years of age cannot secure government employment and having lost the job, is going through a serious financial crisis. Hon'ble Supreme Court orders in *Satwati Deswal v State of Haryana (2010) 1 SCC 126*, has observed that without initiating disciplinary action penalty cannot be imposed. Similarly, law laid down in *SBI v Palak Modi (2013) 3 SCC 307* has not been adhered to. For the aforesaid reasons, the termination order is illegal, arbitrary and is violative of the Principles of Natural Justice as well as Articles 14,16, 21 of the Constitution.

5. Respondents *per contra* state that the applicant joined the respondents organisation as ACIO Grade-II on 22.9.2014 and was proceeded on disciplinary grounds by issuing a charge memo dated 8.8.2018 for frequently reporting late to duty, willfully remaining absent without sanction of leave, disobeying orders of the superiors to attend the basic mountaineering course which is mandatory for confirming the services etc. On receiving the reply, the penalty of Censure was imposed.



Followed it by another charge memo dated 3.1.2020 and imposed the penalty of reduction of pay for lack of devotion to duty. Thereafter, another Rule 16 charge sheet was issued and was Censured on 12.5.2020 for unauthorised absence. The applicant assaulted a State Intelligence Bureau Officer and on the request of the complainant not to take harsh action, the applicant was let off with a warning on 9.11.2020. The applicant did not complete the Basic Mountaineering Training course as per para 2 of the offer of the appointment letter dated 22.7.2014 to declare probation and hence, he is treated as temporary employee. The probation can be extended and further, if appointing authority is of the opinion that the applicant is not fit for permanent appointment, he can be discharged from service. Therefore action under CCS (Temporary Service) Rules 1965 was taken wherein it is provided that the order of termination shall not contain reasons. Applicant was not suspended in regard to submission of medical certificates as claimed by the applicant, but for misconduct of late reporting to duty, unauthorised absence etc. As recently as on 21.10.2020, when the applicant was nominated for mountaineering course informing that the training is mandatory for confirmation, applicant sought exemption on grounds of health. Earlier too, when the applicant was nominated for mountaineering course on 3 occasions in 2018-19, applicant did not attend. The applicant is aware that without completion of the training course which is mandatory, his services would not be confirmed. The claim of the applicant that he has completed the training, is false. He continued to be a temporary employee at his sweet will. There is no provision in the CCS (Temporary Service) Rules to prefer appeal against the order of termination. However, the Head of the Department under CCS (Temporary



Service) Rules can reopen the case and conduct inquiry as deemed fit for further necessary action. The appeal was under examination by the Director and before a final view was taken, OA was filed making the matter sub judice. The permissible time limit to retain the Government quarter is one month by paying standard license fee from the date of termination and hence applicant was directed to vacate lest damage rent @ 40 times the normal rent would be charged. Increments are granted to temporary and permanent employees and the grade pay was increased in the usual course as per rules. The applicant track record is densely dotted with warning memos/ show cause notices, advisories and penalties. The termination order is by exercise of powers vested under temporary service rules and is not relatable to warning memo dated 9.11.2020.

Respondents filed additional material in response to the docket order dated 28.01.2021 wherein they state that as per master circular dated 11.3.2019, a probationer has to pass the courses required for completing the probation. Respondents listed the long list of penalties imposed. Applicant has not come with clean hands by not revealing his earlier misconduct and hence as per law the applicant is not entitled to any relief. Respondents cited the case laws in regard to declaration of probation namely ***Jagdish Mittar v U.O.I, AIR 1964 SC 449, Sukhbans Singh v state of Punjab AIR 1962 SC 1711, State of U.P v Akbar Ali (AIR 1966 SC 1842)***. To declare the confirmation, a DPC has to meet as per the statutory rules to examine APARs & mandatory trainings to be completed and thus there is no automatic confirmation. Hon'ble Principal Bench Order in OA 1334/2012 has observed that unless an employee is confirmed he would continue to be



under probation. ACIOs have to work in high altitudes, border areas and hence completion of the mountaineering course is mandatory and the same has been spelt out in the appointment order. The termination order was as per the terms and conditions contained in the offer of appointment dated 22.7.2014. Intelligence gathering concerns internal security of the country and therefore it has to be done with sincerity and dedication to serve the Nation effectively.



Applicant filed a rejoinder wherein he re-affirms that the applicant was suspended in regard to medical leave from 26.3.2018 to 30.5.2018 and only based on the findings of the medical board the suspension was revoked and the penalty of censure was imposed. The suspension period was also treated as duty. The disciplinary cases initiated in past show that the applicant was a permanent employee. In regard to the incident of physical assault, the respondents persuaded the colleague of the applicant to lodge a complaint. Applicant claims that he attended the training twice with batch 187 & 197 but since he was injured during the training he was sent back to duty on medical advice. Respondents never intimated about the dire consequences of not completing the training. The applicant insists that since the probation was not extended by any order before 6 to 8 weeks of completion of probation, he has to be treated as a permanent employee. Induction trainings were successfully completed. A petty issue between the applicant and his colleague has been projected as a physical assault. The applicant was alerted for the mountaineering course to be held from 14.12.2020 to 31.12.2020 and the applicant was ready to go for the training and in the meanwhile the termination order was issued.

Some officials who did not complete the training were given promotion as ACIO –I. The foundation of the alleged misconduct is punitive in nature. The judgment in ***Jagdish Mittar*** cited by the respondents pertains to a probationer. Master Circular dated 11.3.2019 has been misinterpreted. The Hon'ble Principal Bench judgment relied upon by the respondents is not relevant. Applicant was not sent for the training in question from 2014 to 2018. Applicant enclosed the judgments of the Hon'ble Apex Court in ***Rajinder Singh Chauhan and ors v State of Haryana and ors, (2005) 13 SCC 179; Dayaram Dayal v State of M.P and anr, (1997) 7 SCC 443*** and cited other judgments in support of his contentions.

6. Heard both the counsel and perused the pleadings on record.
7. I. The dispute is in regard to termination of the services of the applicant while working as ACIO Grade –II in the respondents organisation by bringing into play CCS (Temporary) Rules 1965. (“***Temporary Service Rules***” for short). The applicant claims that he is a permanent employee since he has rendered 6 years service as ACIO grade-II with his probation deemed to have been declared after 2 years of service in the absence of any order of extension of the probation issued by the respondents. Moreover, he has completed the induction trainings and other associated trainings successfully. Based on the above, applicant forcefully avers that the termination of his services by invoking the temporary service rules is not in order. Respondents applying Newton's third law of Motion, with equal force oppose the applicant's contention by stating that the probation of the applicant has not been declared since he has not completed the mountaineering course which is an essential condition of the offer of



appointment to confirm his services. As the fulcrum of defense of the respondents is the offer of appointment letter dated 22.7.2014, we extract the relevant paras hereunder:

“2. The terms of this appointment are as under:-



- (i) xxx
- (ii) *During the period of probation or any extension thereof, he/ she will be required to undergo training successfully at the place/ places selected by the Director, Intelligence Bureau and to pass examination test, including examination in a prescribed language as a condition to satisfactory completion of the probation and confirmation in the grade. The minimum qualifying marks in the examination for each subject in the training shall be 40%. In case, the trainee scores less than 40% in any subject or could not appear in the examination in subjects due to his/her absence on leave shall have to appear in those subjects/ paper with the next batch.*
- (iii) *The appointment is temporary. The appointment to the post in permanent capacity will, however, depend on various factors governing permanent appointment in such posts in force at that time. Successful completion of training is mandatory for confirmation to the post of ACIO-II/Exe.*
- (iv) *The appointment may be terminated at any time by a notice of one month given by either side, viz., the appointee or the appointing authority, without assigning any reason. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the expired portion thereof.*
- (v) Xxx
- (vi) Xxx
- (vii) *During training period, he/she will have to undergo P.T. drill and such other physical activity including mountaineering, as directed by the officer-in-charge of the Training Centre.*
- (viii) *The appointment carries with the liability to serve in any part of India or abroad, if needed.“*

The appointment letter makes it explicit that the applicant has to undergo training at places selected by the Director, Intelligence Bureau (IB). Successful completion of the Training is mandatory for confirmation to the post of ACIO-II/Exe. Training in mountaineering has to be undergone. The appointment can be terminated by giving one month notice and in lieu of the notice by disbursing one month salary.

II. The applicant has not completed the mountaineering course which is a precondition for confirmation of his services. While nominating the applicant for the said training on 21.10.2020, it was made once again clear as under:



Basic Mountaineering Course (BMC) is a compulsory training for direct recruit ACIOs – II/ Exec for confirmation.

Therefore, the applicant has been made fully aware that his services would be confirmed only if he were to undergo the BMC. The training in mountaineering has been made mandatory as the applicant is likely to be posted in high altitude areas, border areas and in difficult terrains like in the North East to gather intelligence. Consequently, though the applicant rendered 6 years of service his probation has not been declared. Applicant pleads that as per DOPT OM No.28020/3/2018-Estt.(C) dated 11.3.2019, the respondents have to take a decision in writing to confirm him in service or extend the probation within 6 to 8 weeks of the expiry of the initial probationary period, which the respondents failed to do. However, the applicant has only narrated a part of the story since the DOPT OM has many side tracks of relevance to the issue as extracted hereunder:

9. *In all cases of direct recruitment there should be a mandatory induction training of at least two weeks duration. Successful completion of the training may be made a pre-requisite for completion of probation. The syllabus for the training may be prescribed by the Cadre authorities in consultation with the Training Division of DOPT. The recruitment rules for all posts, wherever such a provision does not already exist, may be amended to provide for such mandatory training. Till such time as the Recruitment Rules are amended, a clause on the above lines may be included in the offer of appointment.*

Xxx

20. *On the expiry of the period of probation, steps should be taken to obtain the assessment reports on the probationer so as to:-*

(i) *Confirm the probationer/ issue orders regarding satisfactory termination of probation, as the case may be, if the probation has been completed to the satisfaction of the competent authority; or*

(ii) *Extend the period of probation or discharge the probationer or terminate the services of the probationer as the case may be, in accordance with the relevant rules and orders, if the probationer has not completed the period of probation satisfactorily.*

Xxx



22. *If it appears to the Appointing Authority, at any time, during or at the end of the period of probation that a Government servant has not made sufficient use of his opportunities or is not making satisfactory progress, the Appointing Authority may revert him to the post held substantially by him immediately preceding his appointment, provided he holds a lien thereon or in other cases may discharge or terminate him from service.*

Xxx

25. *If, during the period of probation or any extension thereof, as the case may be, the Government is of the opinion that an officer is not fit for permanent appointment, the Government may either discharge or revert the officer to the post held by him prior to his appointment in the service, as the case may be. “*

In the context of the instructions contained in the above letter, the action of the respondents in taking action against the applicant cannot be found fault with, since he has not undergone the mandatory BMC to confirm his services. The services are to be confirmed by a DPC after perusing the APARs and other relevant factors. Hence as per the rules of the respondents organization it is not as simplistic an affair that the probation is deemed to be declared after 2 years if not extended. The appointment letter and the letter nominating him for the training make it abundantly clear that BMC is mandatory for confirmation and hence the applicant's contention that he has not been informed of the repercussion, if the probation were not to be declared, is not maintainable. As long as his services are not confirmed he continues to be a temporary employee and will be on probation as observed by the Hon'ble Principal Bench in OA 1334 of 2012, relied upon by the

respondents. Respondents have cited the judgments of the Hon'ble Apex Court in *Jagdish Mittar v U.O.I , AIR 1964 SC 449, Sukhbans Singh v state of Punjab AIR 1962 SC 1711, State of U.P v Akbar Ali (AIR 1966 SC 1842)* in regard to the aspect of declaring probation. The legal principles laid therein do apply to the case of the applicant. The applicant states that they are not applicable by stating that in the case of Jadish Mittar, the petitioner was a probationer. The instant case is no different as the applicant would continue to be in the garb of a probationer until his services are confirmed. Therefore, the decision to invoke Temporary Service Rules to terminate the services is in accordance with rules and law cannot be found fault with.

III. However, we do observe from the facts on record that the applicant was trying to complete the BMC but due to health reasons, could not complete, as is seen from the document submitted along with the reply statement, the details of which are extracted hereunder:

Sl. No.	Name of the Training	Venue	Duration	Vacancy allotted to BOI Hyd	Authority	Details of main/ reserve officials	Course attended or not
1	Basic Mountain eering Course	SGMI, Gangtok	08.01.2018 to 31.01.2018	1	IB HQrs Memo No.12C-4/2017(8)-6483 dt.08.12.2017	1) Srinivas Kasavajjula, ACIO-II/G, PIS No. 141409 (Detailed)	Attended but not completed the course due to medical problem
2	Basic Mountain eering Course	SGMI, Gangtok	19.03.2018 to 11.04.2018	1	IB HQrs Memo No.12C-4/2017(6)-626 dt.16.2.2018	1) Srinivas Kasavajjula, ACIO-II/G, PIS No. 141409 (Detailed)	Not attended, as he expressed inability to attend the said course as intimated by AD. But medical unfit certificate was not submitted
3	Basic Mountain eering Course	SGMI, Gangtok	15.04.2019 to 09.05.2019	1	IB HQrs Memo No.12C-4/2018(2)III-1597 dt.19.03.2019	1) Srinivas Kasavajjula, ACIO-II/G, PIS No. 141409 (Detailed)	Attended but course was cancelled
1	Basic Mountain eering Course	SGMI, Gangtok	28.10.2019 to 20.11.2019	1	IB HQrs Memo No.12C-4/2019(9)-5281 dt.17.09.2019	1) Srinivas Kasavajjula, ACIO-II/G, PIS No. 141409 (Detailed)	Attended and returned from SGMI in the middle of the course due to medical problem.

The applicant inability to complete the course due to medical issues is to be empathised. Hence, it is definitely not a case of avoiding the training. Further, the applicant was getting ready to undergo the training from 14.12.2020 to 31.12.2020 and in the meanwhile, as a bolt from the blue, the impugned order of termination was issued on 26.11.2020. The endeavour to complete the training by the applicant was always there, but it is just that his health was not permitting the same.



VI. Training apart, the applicant asserts that the foundation of the termination was based on misconduct in the context of a false complaint made by a colleague and therefore, the respondents have to abide by article 311 (2) of the Constitution and that any penalty to be imposed will be subsequent to conduct of disciplinary proceedings under CCS (Conduct) Rules, 1965 and that in the past, the respondents imposed penalties by invoking the disciplinary rules as are applicable to permanent employees. When the respondents have imposed multiple penalties by invoking the CCS (CCA) Rules 1965, the sudden 'U' turn in embarking on a mission of torpedoing the services of the applicant by operating Temporary Service Rules is not in consonance with norms laid in dealing with permanent employees. Some of the penalties imposed as presented in the reply statement are as under:

Sl. No.	Charge	Charge Memo dt.	Under CCS (CCA) Rules 1965	Imposition of punishment
1	For habitually reporting late for duty without prior permission and willfully remaining absent without proper sanction of leave and disobeying the lawful and reasonable orders of superior	08.08.2018	Rule 14	Censure, vide order dt. 18.09.2018 (Copy at R-1) (Although admitted by mistakes, by taking lenient view, imposed the



	officers such as not attending the basic mountaineering course, which is a mandatory training for all direct recruit ACIOs-II/Exe for confirmation, as per the Recruitment Rules			said Censure)
2.	For deliberately committing mistakes repeatedly in processing applications, exhibiting lack of devotion to duty and habitually continuing to report late duty and remaining absent from duty without prior permission or sanction of leave during his posting in e-FRRO Section	03.01.2020	Rule 14	Major penalty of Reduction in Pay for a period of 3 years, vide order dated 15.06.2020 (Copy at R-2) (Admitted the guilty of charge)
3.	For remaining absent from duties without obtaining prior approval and making false claims in defence of his absenteeism	20.04.2020	Rule 16	Censure, vide order dated 12.05.2020 (Copy at R-3) (Charges proved)
4.	The applicant physically assaulted one of the officers of the office of SIB, Hyderabad on which complaints were received	19.10.2020		Warning, vide order dt. 09.11.2020 (Copy at R-4) (As the complainant requested the disciplinary authority to take a lenient view, warned the applicant.)

We do observe that the career chart of applicant is thickly populated with 7 warning memos, 16 show cause notices, 9 advisories and 3 penalties (R-29 to R-31) filed with Reply. The ld. Respondent's counsel submitted that applicant has been given many opportunities to correct himself, but it appears that the applicant is recalcitrant and hence, the termination. The career of the applicant being afflicted with plentiful memos, it is a moot point for the applicant to ponder as to whether his claim that there was no deficiency in his performance would hold good. The respondents organisation did give a long rope to the applicant to mend his conduct given the number of memos, notices etc issued to him. Projecting the physical assault on a colleague as a petty issue by the applicant is disturbing to note. In an Organization where utmost restraint, patience and

mindful tackling of a situation are the hall marks of performance the assault on a colleague is not a insignificant incident. The Ld. applicant counsel terming it as a simple shoulder jerk in a jovial mood is amusing to say the least. In the same vein we do not appreciate the submission of the respondents that the applicant has not come with clean hands in regard to the disciplinary cases. The applicant's forte of defence is that he has been proceeded against on disciplinary grounds in the past under CCS (CCA) Rules 1965 and therefore, why use Temporary Service Rules to show him the door. Hence, it is incorrect to state that he has not come with clean hands.

VII. On the count that the respondents have proceeded under CCS (CCA) Rules 1965 in regard to misconduct in certain cases, the respondents are not restrained to invoke Temporary service rules against an employee holding a temporary post. The option to exercise the provisions of Temporary Service Rules is always open to the respondents as long the applicant bears the risk of being on probation till he completes the BMC as per the terms and conditions of appointment letter which he has accepted and joined the service. Further, the contention of the applicant that he was proceeded for misconduct under CCS (CCA) Rules 1965 in different issues and in particular applicant using the memo dated 9.11.2020 as a lynch pin to claim that the foundation for termination of service is misconduct to invoke temporary service rules, is not well founded. It is just an assumption pushed forward to wriggle out from the situation he is placed in. We have gone through the other averments made by the applicant in regard to suspension in the context of the issue of a medical certificate which was





hotly contested by either side, but suffice to say that for every action there has to be a reaction as for instance the vacation of quarter is the culmination of the decision to terminate the services of the applicant and the vacation order of the respondents is as per quarter allotment rules. No deviance whatsoever. The respondents are impersonal and they would not be after anybody unless they infringe the norms. Obviously, when norms are given a go-bye, the consequences have to flow and that is not only as per CCS Rules but as per the law of Nature. It is this sense of responsibility which has to dawn on an employee so that he can progress not only in his career but life too. More so, when someone is working for a very sensitive organization with critical responsibilities involving National Security. Any minor lapse here and there would lead to disastrous consequences from the point of view of National Security. Therefore, rigorous discipline and utmost devotion to duty has to be maintained with zero error. The Supreme Court judgments cited by the applicant would not be applicable in the peculiar circumstances in which the applicant is placed. The decision in each case depends on the facts and circumstances of the case. The Hon'ble Supreme Court orders in *Satwati Deswal v State of Haryana* (2010) 1 SCC 126, is not applicable since statutory rules provide for taking action against the applicant based on Temporary Service Rules. Besides, the averments of the applicant that the increase in grade pay, grant of annual increments etc., are not factors which place the applicant in the category of a permanent employee since these are granted to both the temporary and permanent employees. The applicant has to focus on completing BMC to be upgraded as a permanent employee, which, indeed, is the foundation for his permanency. Instead of fortifying the required foundation, exploring means

to claim the foundation of the termination order as misconduct would rather be a barren exercise. Applicant submitted that some others have been promoted as ACIO– I without training would not be of assistance to him for reasons of not making them a party and negative equality cannot be encouraged. The other contentions made by the applicant have also been gone into but commenting on them would only elongate the judgment without making much difference to the final outcome and hence allowed them to rest in peace.



VIII. Nevertheless, we do not hesitate to observe that the applicant appears to have genuine health issues, which calls for taking a view with a human touch. We do also observe that the respondents organization has been in a way very accommodative in dealing with the angularities of the conduct of the applicant. There was always an option for the respondents to cut the umbilical cord in the early years of the career of the applicant given his disposition to work for whatever reasons it may be. However, they have shown forbearance and fine balance in not wielding the axe straight away given the case history. Perhaps, it may be because the applicant is an important National Resource deployed to gather intelligence which is critical for the security of our Nation, we love the most. Lot of time, effort and money would have gone into the making of Intelligence Officers who are the eyes and the ears of the Nation and help us to sleep in peace, risking their own lives to keep us safe. Therefore, we are of the view that such a valuable resource should not be wasted because of the short bursts of emotional idiosyncrasies of a young man struggling to make a career with a baggage of medical issues. Medical issues are physical in nature and they

can be overcome over a period of time with environmental support which includes the extended family of the respondents organization. However, the rule of law has to prevail and the respondents have to act only within the confines of the relevant rules.



IX. The respondents were fair enough to state that though there is no provision for appeal against termination in the Temporary Service Rules, yet, they were attempting to process the appeal and in the meanwhile, the OA was filed and hence, no further view could be taken on the issue. The Temporary Service Rules (Annexure A-25) do provide that the Head of the Department may, on its own motion or otherwise, reopen the case and after such enquiry, as is deemed fit, confirm the action taken by the appointing authority or (ii) withdraw the notice or (iii) reinstate the Government Servant in service or (iv) may make such other order in the case as it may consider proper. The last para of the appeal made by the applicant dated 22.12.2020 is extracted here under:

“Sir, now I am 33 years old and crossed the age limit for any employment in Government. By virtue of the order of termination I was thrown on the roads. Sir, I hereby undertake that I will henceforth render my services to the satisfaction of my superiors and will be a good colleague among my peer group.”

The applicant is aged 33 years and due to termination of his services, he would not be able to seek any Govt. appointment and the financial misery that flows is understandable. The applicant undertakes to render service as he is called upon to do so. Punishment has to be reformative and not to condemn a person forever. We do appreciate that the respondents have been graceful in dealing with the case by being patient with him despite the

numerous Memos, notices, etc, which are astronomical given the short stint of 6 years of the applicant. However, having gone through the length and breadth of the case, we are of the view that the Director, Subsidiary Intelligence Bureau, need to examine the appeal dated 22.12.2020 of the applicant as per the provisions stated in the para supra and dispose it in the best interests of the Organization, Nation and the survival of the applicant. Accordingly, he is directed. We are aware that such a decision involves a battle between the heart and the mind and we leave it to the Director, SIB/Competent authority to take a decision which could be a golden mean between the two, with a win- win outcome.

X. Time allowed to implement the judgment is 3 months from the date of receipt of the order. With the above direction, the OA is disposed of, with no order as to costs.



(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/