

Item No.7

**Central Administrative Tribunal
Jammu Bench, Jammu**



T.A. No.6317/2020
S.W.P. No.1042/2005

Wednesday, this the 17th day of February, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Shabir Ahmad Ahanger, Aged 31 yrs,
S/o Mohd. Ismail Ahanger,
R/o Aripal Tral, Kashmir.

..Applicant

(Mr. M. S. Reshi, Advocate)

VERSUS

1. State of J&K through Financial Commissioner, Home Department, J&K, Srinagar.
2. Director General of Police, J&K, Srinagar.
3. Inspector General of Police, Kashmir Zone, Srinagar.
4. Deputy Inspector General of Police Kashmir Range, SKR, Anantnag.
5. Senior Superintendent of Police, Pulwama.

..Respondents

(Mr. Sudesh Magotra, Dy. Advocate General)

ORDER (ORAL)

Justice L. Narasimha Reddy:



The applicant was selected and appointed as Constable in Jammu and Kashmir, in the year 2000, and was put on probation. Stating that the applicant remained unauthorisedly absent even while undergoing training and when he was posted at various places, the appointing authority passed an order dated 18.10.2002, terminating the probation of the applicant. The mercy petition preferred against that, was rejected on 07.12.2004. Challenging both the orders the applicant filed SWP No. 1042/2005 before the Hon'ble High Court of Jammu and Kashmir.

2. The applicant pleaded that the impugned order dated 18.10.2002, amounts to attaching stigma to him and that can only be done after conducting a detailed enquiry. He submitted that the absence on various spells was on account of the serious illness of his father, and the impugned order cannot be sustained in law or on facts.

3. On behalf of respondents a detailed counter affidavit is filed. It is stated that the applicant remained absent on more occasions than one and such unauthorized absence in a disciplined Police department, that too during probation period, cannot be tolerated at all.

4. The Writ Petition has since been transferred to this Tribunal in view of reorganization of the State of Jammu and Kashmir and renumbered as TA.No.1042/2005.



5. Today, we heard Mr. M. S. Reshi, learned counsel for the Applicant and Mr. Sudesh Magotra, learned Dy. Advocate General, for the Respondents.

6. The impugned order was passed terminating the probation of the applicant. It was on the basis that he remained unauthorizedly absent on several occasions. The details of the period of absence of the applicant re mentioned in the impugned order itself. It was stated that the even during the recruitment training, the applicant remained absent and that he was given an opportunity to improve himself. He continued to remain absent unauthorizedly on several occasions. It is fairly well settled that the termination of a probation cannot be treated either as a punishment or does it warrant any disciplinary inquiry. It is only when any stigma is attached that the necessity to conduct a semblance of inquiry would arise.

6. In the instant case, the observation made by the disciplinary authority is that the applicant remained absconded from the Police Training School (PTS), Manigam, even at the initial stage and he failed to prove himself as a good Police



officer. This, by no means, can be treated as stigma. The attempt was only to mention that the applicant remained absent and such officers would not be attributed as a good Police officer. No act of misconduct or any objectionable behavior was attributed to the contrary. Once it is a pure case of termination of probation without any stigma to the applicant, the necessity to conduct an inquiry does not exist. If the applicant has any apprehension with the observation that unauthorized absence would not make a good Police officer on account of any stigma and comes in the way of his being appointed elsewhere, we make it appropriate that it shall not be treated as a misconduct.

7. We do not find any merit in the TA and the same is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 17, 2021
/sunil/ankit/dsn