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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 12.05.2026+ **LPA 129/2026**

SUDHANSHU JOSHI

.....Appellant

Through: Mr. Mangesh Naik & Mr. Abhishek
Aggarwal, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Gunjan Sinha Jain, Mr. Manu
Bajaj & Ms. Parul, Advocates for
Respondent No.2/ National Skill
Development Corporation.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****DEVENDRA KUMAR UPADHYAYA, CJ (ORAL)****CM APPL. 15846/2026 (Condonation of Delay)**

1. For the reasons stated in the Application, the delay of 19 days in filing the Appeal is hereby condoned.
2. The Application stands disposed of.

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3. Heard the learned Counsel for the Parties.
4. By instituting the proceedings of this *intra-Court* Appeal, the Appellant seeks to take exception to an order dated 17.01.2026 (“**Impugned Order**”) whereby the W.P.(C) 13746/2022 (“**Writ Petition**”) instituted by the Appellant, has been dismissed.



5. We may indicate at this juncture itself that by instituting the aforesaid Writ Petition, the Appellant had challenged the order dated 10.08.2022 whereby, in terms of Clause 17 of the Letter of Employment (“LoE”), the relationship of employee and employer between the Appellant and Respondent No. 2 was severed. Though the said letter dated 10.08.2022 mentions that services of the Appellant shall stand terminated as per Clause 17 of LoE with effect from 11.08.2022, however, Clause 17 of LoE does not employ the word ‘termination’, rather it implies the word ‘separation’.

6. The order dated 10.08.2022 clearly states that the Appellant was separated from employment as per Clause 17 of the LoE. It further provides that on such severance of the relationship, the Appellant shall be released from all duties as General Manager (Administration) of the Respondent–Company.

7. Submission of the learned Counsel for the Appellant is that the order dated 10.08.2022, in fact, is an order of termination of service, and before passing the said order, no opportunity of hearing, etc., was provided to the Appellant, and hence, the said order was passed in flagrant violation of principles of natural justice, which vitiates the same.

8. He has further argued that though learned Single Judge has proceeded to decide the Writ Petition presuming that Respondent No. 2 – Company is a State within the meaning of Article 12 of the Constitution of India, 1950, however, the principle relating to severance of relationship of an employee and employer in case the employer is a public body, have completely been ignored by the learned Single Judge and, therefore, the order impugned in this Appeal is liable to be set aside.



9. On the other hand, the learned Counsel representing Respondent No. 2 has clearly stated that merely because the order dated 10.08.2022 uses the word ‘termination’ in place of ‘separation’, the same will not be an order of termination for the simple reason that the same refers to Clause 17, which is in relation to separation of employment and not in relation to termination from employment. Further, she has also stated that in case any order terminating the services of an employee working with the Respondent-Company is to be passed in terms of Clause 18 of the appointment letter, the same has to precede with certain perquisites as is clear from a bare perusal of Clause 18 itself also.

10. She has argued that no such reference is made in the order dated 10.08.2022 and, therefore, the order of separation from employment, in other words, is an order terminating the services of the Respondent, which is simpliciter termination, that does not cast any stigma and, therefore, no opportunity of hearing, etc., was required.

11. Having heard the learned Counsel for the Parties, we are unable to agree with the submissions made by the learned Counsel for the Appellant for the following reasons:

- a. If we peruse the LoE dated 13.05.2016, it clearly stipulates certain terms and conditions.
- b. Clause 17 of the LoE dated 13.05.2016 is extracted hereunder: -

“17. Separation

After confirmation, either party may terminate this appointment by giving two month’s notice in writing. In the event of the requisite period of notice not being given, either side will be liable to compensate proportionately to the extent of basic salary amount due for the period of shortfall in notice period. In the event, separation is initiated by you,



NSDC may, at its discretion, relieve you from such date as it may deem fit even before expiration of the notice period, without incurring any liability to pay you compensation for the unexpired period of the notice period.”

c. We also extract Clause 18 of the LoE which reads as under:-

“18. Termination

NSDC may immediately terminate your services without any compensation or notice thereof, if you are in material breach of your responsibilities which breach either (i) is incapable of remedy; or (ii) if capably of remedy, has not been remedied by you for at least 5 days after receipt of notice from NSDC.

The Management shall be at liberty to terminate your contract without any notice in the event of: Insubordination, indiscipline, dishonesty or negligence of duty, you’re being unable to attend to perform your engagement effectively on account of prolonged ill health, unauthorized absence from engagement.

In the event of your continuous absence for a period of 10 working days or more, without formal request or permission from management for the same, you shall be deemed to have left and relinquished your service. Such automatic relinquishment of the contract of employment shall be deemed as repudiation of the contract of employment by you, and not as a termination of the service by the Company. Upon termination for whatever cause or reason, you shall return all company property including books, papers, and documents whether in hard copy or in soft form, entrusted to you during the course of your employment with NSDC. Upon the termination of your employment you will be entitled to be paid in respect of any holiday accrued and not taken and will repay to NSDC an amount in respect of excess holiday taken over that which was accrued. NSDC may, in its sole discretion, deduct the value of the property not returned by you in the full and final settlement.”



- d. If we compare the two provisions contained in Clause 17 and Clause 18 of the Letter of Employment, what we find is that Clause 17 speaks of separation from employment, which is a simpliciter provision and provides that after confirmation of services of an employee, either party may terminate the appointment by the two months' notice in writing. It further stipulates that in the event of the requisite period of notice not being given, either side will be liable to compensate proportionately to the extent of the basic salary amount due for the period of shortfall in the notice period. It further states that in the event separation is initiated by the employee, the Respondent-Company may, at its discretion, relieve him from such date as it may deem fit even before expiration of the notice period without incurring any liability. To the Contrary, Clause 18 speaks of termination of services without any compensation or notice in a situation where an employee is in material breach of his responsibilities and such breach is incapable of remedy, or if capable of remedy, has not been remedied by the employee for at least five days after receipt of notice from the Respondent-Company. It further provides that the management of the company shall be at liberty to terminate the contract of service without any notice in the event of (i) insubordination (ii) indiscipline (iii) dishonesty and (iv) negligence of duty.
- e. It further provides that in case an employee is unable to perform his engagement effectively on account of prolonged ill health or unauthorized absence from engagement termination of services from



employment can happen.

- f. Thus, any termination of employment effected in terms of Clause 18 is based on certain misconduct such as insubordination, indiscipline, dishonesty or negligence of duty. It may also occur in a situation where the employee concerned has been found to be in material breach of responsibilities, which either he does not remedy within at least five days after receipt of notice from the Respondent-Company or in respect of which he is found to be incapable of remedy. In such situations, since the termination of employment under Clause 18 is based on misconduct and incapacity / incapability etc., in our considered opinion, without conducting an inquiry or without giving a show cause notice and opportunity to defend himself, termination of the employment of the employee cannot take place, which would otherwise be stigmatic without following the principles of natural justice.
- g. However, having observed as above, so far as separation from employment under Clause 17 is concerned, this is permissible by either the employee or the employer by giving two months' notice in writing. Such separation of employment, in our considered opinion, would be termination of employment – simpliciter, and in that eventuality, no opportunity will be required to be given to the employee concerned for the simple reason that it will not cast any stigma on the employee who is being separated from employment.
- h. Even otherwise, in absence of any bye-law or rule or a statutory prescription governing the condition of services and the relationship



between the Appellant and the Respondent-Company, the terms of his appointment is to be necessarily governed by the LoE, which stipulates certain terms and conditions. On fulfilment of a particular condition, as is stipulated in Clause 17 of the terms and conditions of the said LoE, if services of an employee are being separated, in our opinion, unless such an action is found to be infested with *malafide* or is absolutely arbitrary, no interference in the exercise of jurisdiction under Article 226 of the Constitution of India, 1950 will be permissible.

12. For the aforesaid reasons, we find that learned Single Judge has taken the correct view of the matter.

13. Resultantly, the Appeal is hereby dismissed. There shall be no order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

MAY 12, 2026/ 'A'