



2026:DHC:2988-DB



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

+ W.P.(C) 5165/2023 & CM APPL. 20119/2023

GOVT OF NCT OF DELHI AND ORS .....Petitioners

Through: Mrs. Avnish Ahlawat, SC with  
Mr. Uday Singh Ahlawat, Mrs. Tania  
Ahlawat and Mr. Nitesh Kumar Singh,  
Advs.

versus

MR INDER PRAKASH .....Respondent

Through: Mr. Puneet Rathi and Mr.  
Mohd. Shahrukh Qureshi, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

**JUDGMENT(ORAL)**

% **09.04.2026**

**C. HARI SHANKAR, J.**

1. These proceedings stem from a charge sheet dated 2 December 2012 issued to the respondent, whereby disciplinary proceedings under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 were initiated.

2. The charge sheet contained only Article of Charge, which reads thus:

“ARTICLE-I

Sh. Inder Prakash who is working as Peon in Govt. Boys Sr. Sec. School, Shahbad Mohd. Pur, Delhi is absenting from his duty without any information w.e.f. 12-04-2011 to 31-05-2011 and again from 23-07-2011 to till date. From his leave record, it also



came to know that before going on unauthorized leaves, he has already availed 1230 days leaves which show that he is a habitual absentee.

Thus by doing the said acts, the official has committed a gross insubordination and acted in manner of unbecoming of a Govt. servant in violation of provision of Rule 3 of CCS (Conduct) Rules, 1964. Thereby rendering him liable to action under Rule 14 of CCS (CCA) Rules, 1965.”

3. Mr. Singh, learned Counsel for the petitioner, to a query from the Court, candidly acknowledges that the leaves availed by the respondent for the periods prior to 12 April 2011 were all duly sanctioned and regularised. In that case, applying the law laid down by the Supreme Court in *State of Punjab v. Dr P.L Singla*<sup>1</sup> these periods could not have constituted a basis of the charge sheet at all.

4. As such, the charge sheet could, if at all, have survived only with respect to leaves for the period 12 April 2011 to 31 May 2011 and 23 July 2011 to 2 December 2012.

5. The Disciplinary Authority<sup>2</sup>, in its order dated 1 June 2013, imposed, on the respondent, the punishment of termination from service. We deem it appropriate to reproduce the concluding paragraphs of the impugned order which contain the operative portion thereof, as under:

“From considering all the facts and record, it reveals that Sh.Inder Prakash remained absent from his duty w.e.f. 12.04.2011 to 31.05.2011 and again from 23.07.2011 to 27.12.2012. For the period from 12.04.2011 to 31.05.2011 he has submitted his medical, while for the period from 23.07.2011 to 27.12.2012, he has neither submitted any medical nor informed his school about

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<sup>1</sup> (2008) 8 SCC 469

<sup>2</sup> “DA” hereinafter



his absence as per his statement in the inquiry dated:- 05.02.2013. Sh.Inder Prakash alleged that he was not provided defence assistant while in his statement dated:-22.11.2012, he submitted that he did not want any defence assistant and will defend his case by himself. Moreover, he has attended the inquiry on subsequent dates i.e. 11.01.2013, 05.02.2013 & 15.02.2013, but nowhere he had submitted any submission in this regard. Therefore, the allegation of not allowing defence assistant is not substantial.

From his service book it revealed that he was never regular in his service and took more than 1200 days leaves on various occasions. It shows that the official is a habitual absentee. It seems that the official is not interested in his duty and has shown lack of devotion towards his duty. By regularly absenting himself from his duty, Sh.Inder Prakash not only hampers the functioning of school administration but also become a liability to his school. Such act justifies the termination of service as the official lacks interest in his duty.

In these circumstances, I am of the opinion that Sh.Inder Prakash, Peon is guilty of the charge leveled against him vide memorandum dated:- 02.02.2012 and deserves for an exemplary punishment.

Now, therefore, I, Jang Bahadur Singh, Deputy Director of Education, District South West-B being the Disciplinary Authority, in exercise of powers conferred upon me under Rule 12 of CCS(CCA) Rules, 1973 hereby impose the penalty of "Removal from Service" upon Sh.Inder Prakash, Peon with immediate effect which shall not be a disqualification for his future employment under government. The entire period of his unauthorized absence be treated as Dies-non for all purposes."

6. A bare reading of the aforesaid paragraphs reveals that the DA has *prima facie* accepted the explanation tendered by the respondent regarding his absence for the period 12 April 2011 to 31 May 2011, attributable to medical grounds. The DA appears to have been passed the punishment order basically on the ground that the respondent had availed 1200 days of leaves earlier. We have already noted that this leave having been regularly sanctioned and therefore regularized, and could not have been taken into account.



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7. As such, the ground on which the DA has proceeded is unsustainable in law.

8. The DA would, therefore, have to take into consideration the respondent's explanation for the period of leave from 23 July 2011 to 2 December 2012 and, thereafter, decide on the quantum of punishment if at all which the respondent would be required to be visited by for the said purpose.

9. The impugned judgment of the Central Administrative Tribunal<sup>3</sup> has set aside the punishment awarded to the respondent as disproportionate and has remanded the matter to the DA for reconsideration as to awarding of any lesser punishment.

10. While we do not deem it necessary to interfere with the said direction, we clarify that the *de novo* proceedings would be limited to the allegation of absence for the period 23 July 2011 to 2 December 2012. Before taking a decision thereon, the respondent would be entitled to submit a supplementary statement of defence for the said period and also entitled to an opportunity of personal hearing on a date to be communicated to Mr. Puneet Rathi, learned Counsel for the respondent by the DA. We direct the DA to take a decision within a period of six weeks.

11. We do not make any observation regarding the quantum of punishment to be awarded. However, we are sanguine that the DA would act with fairness keeping in mind the fact that the allegation



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was of unauthorised absence for the period 23 July 2011 to 2 December 2012 and keeping in mind the law laid down in that regard by authoritative pronouncements.

**12.** We, however, reiterate the decision of the Tribunal that the punishment would have to be lesser than dismissal, removal or cessation of service.

**13.** The writ petition is disposed of in the aforesaid terms with no orders as to costs.

**C. HARI SHANKAR, J**

**OM PRAKASH SHUKLA, J**

**APRIL 9, 2026/AR**

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<sup>3</sup> “Tribunal” hereinafter