

# SUPREME COURT OF INDIA

Kunwar Arun Kumar

Vs.

U.P. Hill Electronic Corporation Ltd.

(K. Ramaswamy and G.B. Pattanaik JJ.)

28.10.1996

## ORDER

I.A. is dismissed.

This special leave petition arises from the Order and judgment of the Division Bench of the Allahabad High Court dated July 3, 1996 made on July 3, 1996 in Writ Petition No.6676(s/s)/92.

The petitioner was appointed on January 15, 1990 in the pay-scale of Rs.550-1100/= with allowance; total remuneration was coming to Rs.1991.40. He was put on probation as contemplated under clause (2) of the letter of appointment which reads as under:

"You will be on probation for a period of 12 months from date of your joining, which period may be extended from time to time at the discretion of the Management. During the period of probation, your services may be terminated without assigning any reason therefore."

His service was terminated by proceedings dated January 16, 1991 which reads as under:

"During the period of probation your work performance was found unsatisfactory. Therefore, your services are hereby terminated with effect from 16 Jan. 91 as per clause (2) of your appointment letter referred to above."

The petitioner challenged the order of termination in the High Court. The High Court without going into the question whether or not it is stigma, came to the conclusion that the respondents had totally lost confidence in the appellant and that he was totally unsuitable to the job for which he was employed and, therefore, he was found not entitled to any enquiry. Consequently, it dismissed the writ petition. Shri Sehgal, learned senior counsel for the petitioner, contends that the finding recorded amounts to a stigma; action taken without conducting enquiry and giving an opportunity to the petitioner, is violative of Article 311(2) of the Constitution and the rules made thereunder. Therefore, he is entitled to an opportunity of being heard and be dismissed only on the ground of misconduct and not by termination simpliciter. We do not agree with the learned counsel. The order may be a motive and not a foundation as a ground for dismissal. During the period of probation, the authorities are entitled to assess the suitable to remain in service they are entitled to record a finding of unsatisfactory performance of the work and duties during the period of probation. Under these circumstance, necessarily the appointing authority has to look into the performance of the work and

duties during the period of probation and if they record a finding that during that probation period, the work and performance of the duties were unsatisfactory, they are entitled to terminate the service in terms of the letter of appointment without conducting any enquiry. That does not amount to any stigma. If the record does not support such a conclusion reached by the authorities, different complexion would arise. In this case, they have recorded the finding that the petitioner was regularly absent on one ground or the other. Under these circumstances, the respondents terminated his services. We do not find any illegality in the action taken by the respondents. The special leave petition is accordingly dismissed.