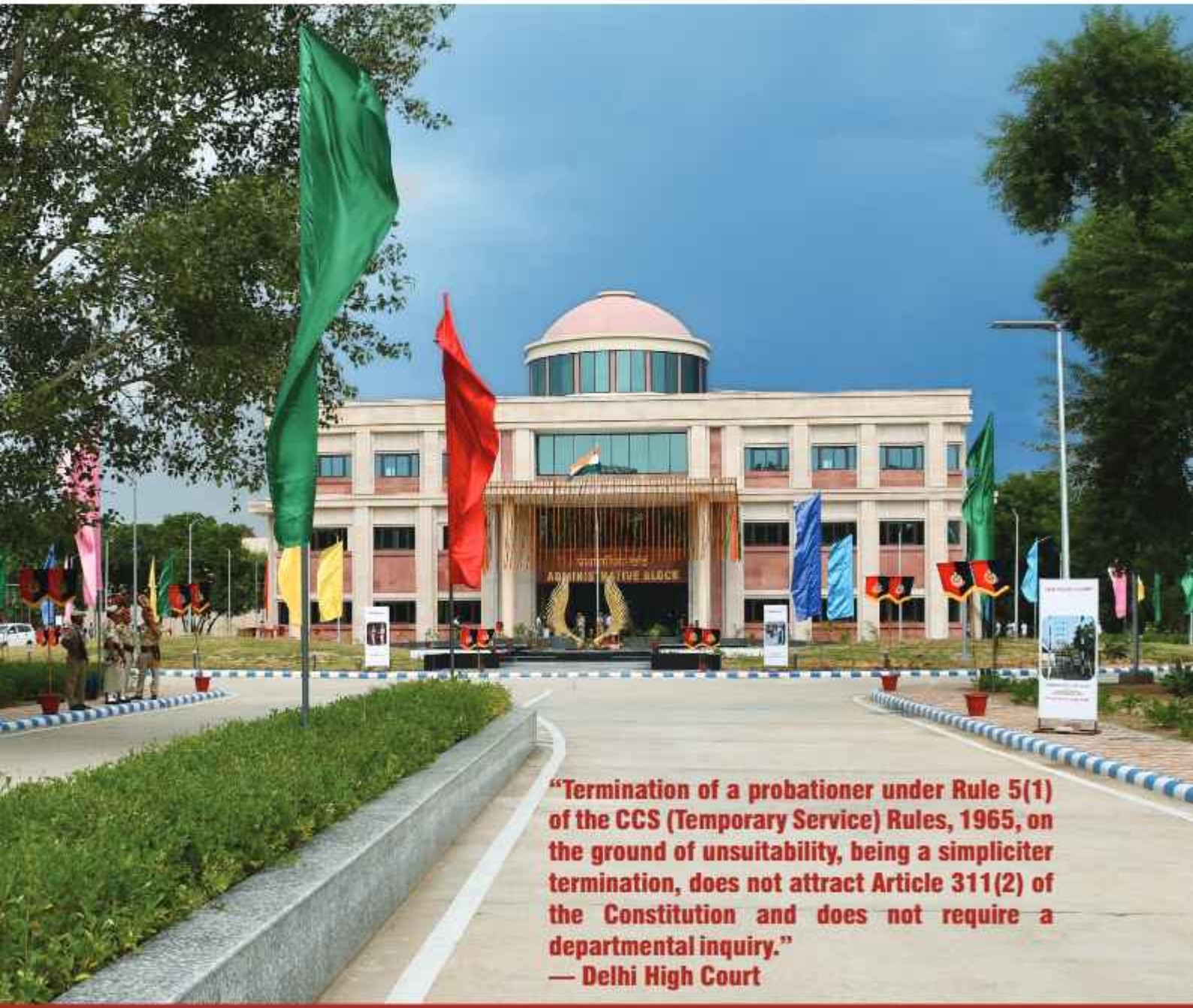
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The Fortnightly e-Journal

DELHI POLICE ACADEMY

Delhi High Court WP(C) 9803/2023 CM Appeal No. 37699/2023
Date of Judgement: 28/11/2025

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— Delhi High Court

Govt. of NCT of Delhi & Ors. V. Devender Singh
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Facts of the Case:

1. Devender Singh was provisionally selected as a Constable (Executive) (Male) in Delhi Police and joined service on 04.10.2012.
2. During basic training at Police Training School, Wazirabad, he remained absent without authorization on five occasions between October 2012 and January 2013. Punishment drills were imposed and certain periods were treated as dies non (not spent on duty).
3. Considering his repeated unauthorized absence and lack of discipline, the Deputy Commissioner of Police/Vice Principal terminated his services on 11.01.2013 under Rule 5(1) of the CCS (Temporary Service) Rules, 1965 read with Standing Order No.16/2010.
4. The constable challenged the termination before the Central Administrative Tribunal (CAT). The Tribunal allowed the Original Application and directed reinstatement with consequential benefits.
5. Aggrieved by the CAT order, the Government of NCT of Delhi filed the present writ petition before the Delhi High Court.

Issues for Determination

Whether termination of a probationary constable under Rule 5(1) of the CCS (Temporary Service) Rules, 1965, based on repeated unauthorized absence during training, was a simple termination on grounds of unsuitability (termination simpliciter) or a punitive/stigmatic termination founded on misconduct requiring compliance with Article 311(2) of the Constitution of India?

Decision of the Court

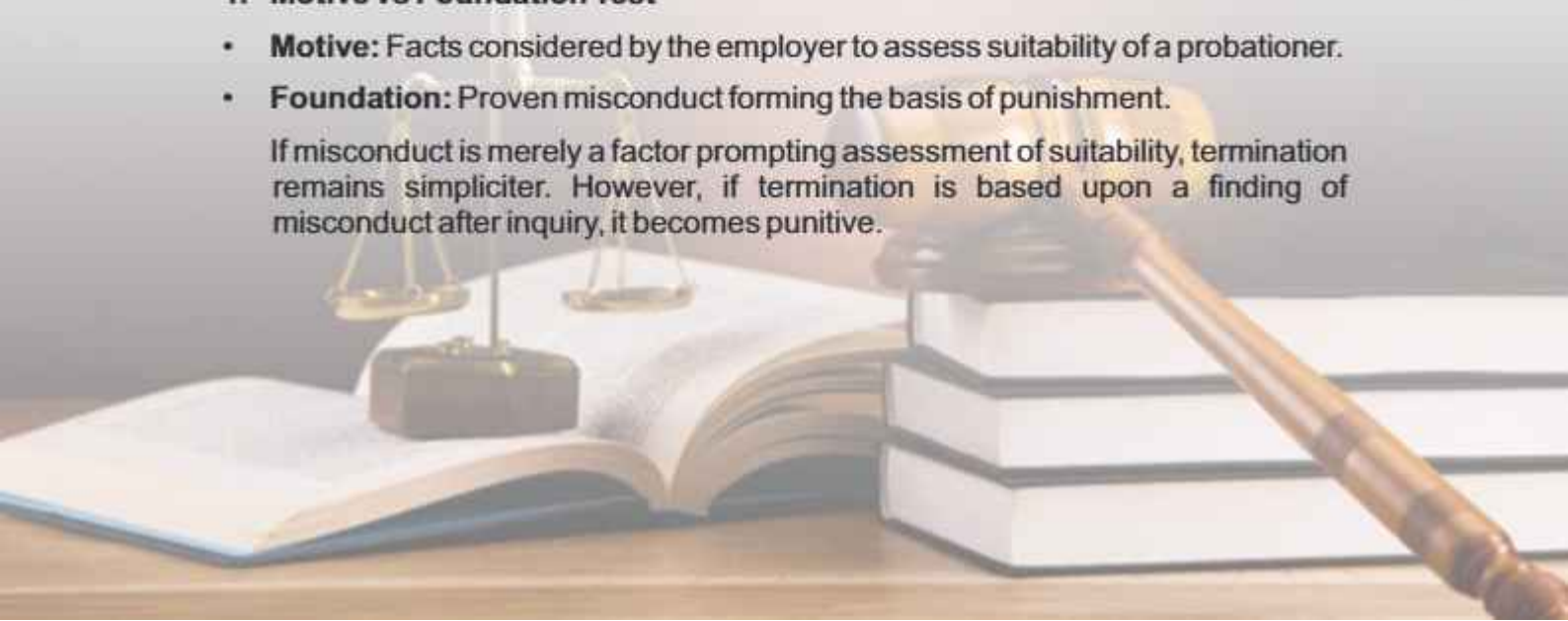
- Allowed the writ petition filed by the Government of NCT of Delhi.
- Set aside the CAT's order dated 23.05.2023.
- Upheld and affirmed the termination order dated 11.01.2013.
- Held that the termination was a termination simpliciter based on unsuitability during training and not a punitive action.

Ratio Decidendi (Legal Principle)

1. **Motive vs Foundation Test**

- **Motive:** Facts considered by the employer to assess suitability of a probationer.
- **Foundation:** Proven misconduct forming the basis of punishment.

If misconduct is merely a factor prompting assessment of suitability, termination remains simpliciter. However, if termination is based upon a finding of misconduct after inquiry, it becomes punitive.



2. **Probationers Have No Right to Continue**

   The purpose of probation is to assess discipline, conduct, efficiency, integrity and suitability. A probationer can be discharged if found unsuitable, without holding a departmental inquiry, provided no stigma is attached.

3. **Unauthorized Absence constituted only the Motive**

   The respondent's repeated absences during training were considered only for evaluating his suitability as a police officer. No departmental inquiry was held, no charge-sheet was issued, and no finding of guilt was recorded. Therefore, absence constituted only the motive, not the foundation, of termination.

4. **Appellate Authority's Remarks Do Not Change the Nature of Termination**

   The Court held that explanatory observations made by the Appellate Authority regarding indiscipline and absenteeism do not transform an otherwise innocuous termination order into a stigmatic or punitive order.

5. **Article 311(2) Not Attracted**

   Since the termination order neither recorded misconduct nor imposed punishment, the constitutional safeguards under Article 311(2) were not applicable.

Significance:

This judgment is significant for police administration because it reaffirms that repeated unauthorized absence during training may justify termination of a probationary recruit as an unsuitable candidate without attracting Article 311(2), provided the order remains non-stigmatic and is based on assessment of suitability rather than a finding of misconduct.

