

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. OF 2026
(ARISING OUT OF SLP (C) NO.8806 OF 2026)**

**THE BOARD OF GOVERNORS,
GHANI KHAN CHOUDHURY
INSTITUTE OF ENGINEERING
AND TECHNOLOGY (GKCIET)
AND OTHERS ... APPELLANT(S)**

VERSUS

DEB HALDER AND OTHERS ... RESPONDENT(S)

ORDER

AUGUSTINE GEORGE MASI, J.

1. Leave granted.
2. The present appeal assails the judgment and order dated 28.01.2026 passed by the High Court at Calcutta ("High Court") in FMA No. 2046 of 2018, whereby the High Court affirmed the order dated 03.09.2018 of the Single Judge in Writ Petition No. 31413(W) of 2017. The

learned Single Judge had set aside the order dated 08.11.2017 terminating the services of Respondent No.1 as Superintendent of the Appellant No.1-Institute and had directed his reinstatement with consequential benefits.

3. Respondent No.1 was appointed as Superintendent of the Appellant No.1-Institute and joined on 13.11.2013. He was placed on probation for a period of two years vide letter dated 23.01.2014, the service conditions of the Institute, which then had no Recruitment Rules, being governed by the Office Memorandum of the Department of Personnel and Training dated 21.07.2014. By office order dated 08.11.2017, made effective from 10.11.2017, the Appellant No.1-Institute terminated his services on several grounds, namely the non-disclosure of two criminal cases at the time of his initial appointment, unauthorised absence, and unauthorised involvement in a tender. Respondent No.1 challenged the termination in Writ Petition No. 31413(W) of 2017. The learned Single Judge, by order dated 03.09.2018, held

the termination to be punitive and stigmatic, set it aside, and directed reinstatement with effect from 10.11.2017 together with arrear salary and consequential benefits. The Division Bench, by the impugned judgment dated 28.01.2026, affirmed that view and dismissed the Appellants' appeal. Aggrieved by the impugned judgment dated 28.01.2026, the Appellants has approached this Court by way of filing a special leave petition.

4. Learned senior counsel for the Appellants submits that the termination of Respondent No.1 is a simpliciter discharge of a probationer and not a punitive action. It is urged that a probationer acquires no right to the post, and his services can be terminated during or at the end of probation without the necessity of an enquiry, and that in the absence of any stipulation in the letter of appointment or in the governing instructions, no confirmation could be deemed to have taken place merely upon the expiry of the probationary period. Reliance is placed on **Director (Production), Heavy**

Engineering Corporation and Others v. Jagannath Prasad¹ and Samsher Singh v. State of Punjab and Another². It is further submitted that the Fact-Finding Committee had found the non-disclosure of two criminal cases, unauthorised absence, and an unauthorised involvement in a tender, and that the employer was entitled to satisfy itself as to the suitability of the probationer upon this material, so that the termination disclosed no illegality.

5. Learned senior counsel for Respondent No.1, on the other hand, submits that the termination was stigmatic and punitive, and could not have been effected without a departmental enquiry, which was not held. It is pointed out that Respondent No.1 had disclosed the criminal case in his attestation form, that he had served without adverse remarks and had been entrusted with additional responsibilities, and that the termination had followed upon his report exposing certain institutional irregularities. Reliance is placed on ***Dipti***

¹ 1995 Supp (4) SCC 699

² (1974) 2 SCC 831

Prakash Banerjee v. Satyendra Nath Bose National Centre for Basic Sciences, Calcutta and Others³ for the proposition that any action causing stigma obliges the employer to follow the path of a disciplinary enquiry, a mandate traceable also to Article 311 of the Constitution of India. It is prayed that the appeal be dismissed and that the direction for reinstatement, with full arrears of salary and back wages from 10.11.2017 and consequential benefits, be maintained.

6. We have heard learned senior counsel for the parties and perused the material on record. Two questions arise for consideration. The first is whether the termination of the services of Respondent No.1 was punitive in nature so as to require a regular enquiry. The second, which arises upon the answer to the first, is the relief to which Respondent No.1 is entitled.
7. The distinction between a termination simpliciter of a probationer and a termination

³ (1999) 3 SCC 60

that is punitive is well settled. In ***Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences and Another***⁴, this Court explained that although the stigma of unfitness is implicit in every discharge of a probationer, a simple termination is not stigmatic, and that an order becomes stigmatic only where it is couched in a language that imputes something over and above mere unsuitability for the post. This Court observed:

“29. Before considering the facts of the case before us one further, seemingly intractable, area relating to the first test needs to be cleared viz. what language in a termination order would amount to a stigma? Generally speaking when a probationer's appointment is terminated it means that the probationer is unfit for the job, whether by reason of misconduct or ineptitude, whatever the language used in the termination order may be. Although strictly speaking, the stigma is implicit in the termination, a simple termination is not stigmatic. A termination order which explicitly states what is implicit in every order of termination of a probationer's appointment, is also not stigmatic. The decisions cited by the parties and noted by us earlier, also do not hold so. In order to amount to a stigma, the order must be in a language which imputes something over and above mere unsuitability for the job.”

⁴ (2002) 1 SCC 520

8. The order terminating the services of Respondent No.1 did not rest upon a bare assessment of unsuitability. It recited that he had remained absent without authorisation and had involved himself, without proper authorisation, in a tender. Recitals of this nature impute misconduct and carry evil consequences going beyond a mere finding that the probationer is unfit for the post. An order in such language is stigmatic within the meaning of **Pavanendra Narayan Verma (supra)**, and a stigmatic termination could not have been brought about without a regular departmental enquiry, which admittedly was not held. The requirement of such an enquiry, where the action is punitive, is well established, as **Dipti Prakash Banerjee (supra)** affirms. The learned Single Judge and the Division Bench were therefore right in holding the termination to be unsustainable, and their concurrent view on this question does not call for interference.
9. The setting aside of the termination does not, however, lead inexorably to reinstatement with

full back wages. The relief that should follow the invalidation of a termination is no longer a matter of course, and falls to be determined upon the facts of each case.

10. In **Jagbir Singh v. Haryana State Agriculture Marketing Board and Another**⁵, this Court traced the shift in the legal position and held:

“7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.”

11. The same approach runs through a series of decisions rendered by this Court. In **M.P. State Electricity Board v. Jarina Bee**⁶, this Court

⁵ (2009) 15 SCC 327

⁶ (2003) 6 SCC 141

held that the award of full back wages is not to a natural consequence of the setting aside of a termination. In ***Haryana State Electronics Development Corpn. Ltd. v. Mamni***⁷, this Court directed a lump sum compensation in the place of reinstatement with full back wages. Similarly, in ***Telecom District Manager and Others v. Keshab Deb***⁸ compensation has been awarded in lieu of reinstatement even where the termination was held to be stigmatic and no hearing had been afforded.

12. In the present case, when seen in the facts and circumstances as prevalent, several considerations tell against reinstatement. The termination of Respondent No.1 arose in a setting of mutual distrust, his services having been brought to an end in the aftermath of his report on certain alleged institutional irregularities and amidst allegations and counter-allegations between him and the functionaries of the Institute. The relationship of confidence that must subsist between the

⁷ (2006) 9 SCC 434

⁸ (2008) 8 SCC 402

Institute and its Superintendent has, in these circumstances, been strained beyond repair. A direction to reinstate would return Respondent No.1 to the same setup, among the very personnel with whom the dispute arose and the spirit of distrust and mistrust prevails, which would be neither workable nor conducive to the functioning of the Institute. The appellant is, moreover, a public technical institution, and reinstatement of Respondent No.1 with full back wages for the period since 10.11.2017, which is upwards of eight years, would entail a disproportionate financial burden. A considerable length of time has also elapsed since the termination, and nothing has come on record which indicate that the Respondent No.1 was not gainfully employed during this period.

13. For these above reasons, this Court is of the considered view that the ends of justice would be served not by reinstatement but by an award of compensation. Having regard to the length of service of Respondent No.1, the period that has elapsed since the termination, the emoluments

that he was drawing, and the totality of the circumstances, we consider a lump sum compensation of Rs. 1,35,00,000/- (Rupees One Crore Thirty-Five Lakh only) to be just and adequate, in full and final settlement of all claims of Respondent No.1 arising out of the termination, and in lieu of reinstatement and of all arrears of salary, back wages and consequential benefits.

14. In view of the foregoing, the impugned judgment and order dated 28.01.2026 is upheld insofar as it holds the termination of the services of Respondent No.1 to be unsustainable. The direction for reinstatement with arrear salary and consequential benefits is modified and replaced to the extent that the appellant shall pay to Respondent No.1 a lump sum compensation of Rs. 1,35,00,000/- (Rupees One Crore Thirty-Five Lakh only), in full and final settlement, within a period of four months from the date of this judgment, failing which the said amount shall carry interest @ 6% per cent per annum from today, till payment.

15. The appeal is partly allowed in the above terms.

16. Pending application(s), if any, shall stand disposed of.

.....J.
[SANJAY KAROL]

.....J.
[AUGUSTINE GEORGE MASIH]

**NEW DELHI;
JULY 27, 2026.**