

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
SRINAGAR**

Reserved on: 23.07.2026

Pronounced on: 31.07.2026

Uploaded on: 31.07.2026

*Whether the operative part or full
judgment is pronounced: **Full***

SWP No.2701/2011

NARGIS BEGUM

...PETITIONER(S)

Through: - Mr. Waseem Shamas, Advocate.

Vs.

UNION OF INDIA AND ORS.

...RESPONDENT(S)

*Through: - Mr. Nazir Ahmad Bhat, CGSC.
Mr. Mudasir Malik, Advocate.*

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) Original petitioner, Shabir Ahmad Deedad, filed the present petition, challenging notice of termination bearing No. D.II.I/2008-EC-II dated 13.08.2008. Challenge has also been thrown to order No.D-II-I/08/EC-II dated 15.09.2009, whereby services of the petitioner have been terminated with effect from 11.09.2008. A writ of mandamus directing the respondents to reinstate the petitioner back in service, has also been sought.

2) During pendency of the writ petition, the original writ petitioner passed away and, in his place, his wife, namely, Nargis Begum, was substituted as the petitioner.

3) As per case of the original petitioner, he came to be appointed as Constable (GD) in CRPF after undergoing the selection process and, accordingly, appointment order came to be issued in his favour in February 2008. According to the petitioner, he was granted leave with effect from 04.07.2008 to 06.07.2008 and was directed to report back for duty on 07.07.2008. It is contended that when the petitioner proceeded on leave and reached his home, his house was attacked by the militants on 01.07.2008, as a result whereof his father and other family members sustained injuries and his father was hospitalized. In this regard, a report was lodged with the police. It has been submitted that when the petitioner reported back for duty, he was informed that his services have been terminated with effect from 11.09.2008.

4) According to the petitioner, he filed an application before the Commissioner (Adm), CRPF, Kashmir, and narrated the incident with regard to attack on his house by the militants. The Commissioner issued communication dated 08.02.2010 to the petitioner asking him to submit information with regard to FIR No.157/2003, regarding which challan had been produced against him. It has been submitted that the petitioner submitted report of the concerned police station along with an affidavit and sought

reconsideration of the order of termination. It has been further submitted that the petitioner has been acquitted of the charges arising out of the FIR No.157/2003 of Police Station, Handwara and, as such, he is entitled to be reinstated. It has also been submitted that the petitioner preferred an appeal before respondent No.1 against the order of his termination, however, the appeal came to be rejected by the said respondent in October, 2010.

5) The petitioner has challenged the impugned action of the respondents on the ground that he had not willfully absented himself from duty. It has further been contended that the petitioner was falsely implicated in the FIR wherein he has been acquitted of the charges after a full-dressed trial, therefore, he deserves to be reinstated. It has also been contended that the respondents have not considered the material placed on record, particularly the matter with regard to his acquittal in the criminal case.

6) The respondents have contested the writ petition by filing their reply, wherein they have submitted that the petitioner was sanctioned three days casual with effect from 03.07.2008 to 07.07.2008 and he was to report back for duty on 07.07.2008 but he failed to do so and remained absent from duty with effect from 08.07.2008. It is stated that a registered notice dated 10.07.2008 was sent to the petitioner

through postal authority. Despite receipt of the said notice, the petitioner did not report back to duty and he remained absent unauthorizedly, whereafter, on 13.08.2008, one month's termination notice came to be issued to the petitioner but despite receipt of the said notice, the petitioner did not report back for duty during the period of notice, as a result of which, upon expiry of the period of one month, his services were terminated with effect from 11.09.2008 in terms of impugned order dated 15.09.2008.

7) According to the respondents, the impugned action has been taken in accordance with Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965. It has been further submitted that, during the process of verification of character and antecedents of the petitioner, it came to their notice that he is involved in FIR No.157/2003 for offences under Section 307, 148 RPC registered with Police Station Handwara, and that challan in the said case has been filed against him before the competent court. It has been contended that when this fact came to the notice of the respondents, by that time the petitioner had already been terminated from service in terms of order dated 15.09.2008.

8) The respondents have further submitted that when the petitioner preferred an appeal against the order of his termination, he intimated that the militants had attacked his

house. It has been submitted that the appellate authority asked the petitioner to produce evidence in this regard and to produce material with regard to fate of the case registered against him under Section 307 and 148 of RPC. It has been submitted that the petitioner submitted a letter issued by an advocate of District Court, Kupwara, in which it was stated that parents of the petitioner did not file FIR as the terrorists had warned him not to lodge the report. Accordingly, the application of the petitioner was rejected vide office order dated 13.04.2010.

9) I have heard learned counsel for the parties and perused record of the case.

10) In the instant case, the petitioner was appointed as Constable (GD) in terms of order issued in February 2008. As per the terms of his appointment, he had to undergo probation period of two years and during this period, his services were liable to be terminated at any time on one month's notice without assigning any reason in accordance with the provisions contained in Rule 16 of the Central Reserve Police Force Rules, 1955 (for short "CRPF Rules") read with Rule 5 of the Central Civil Services (Temporary Service) Rule, 1965 (for short "Rules of 1965"). It is admitted case of the parties that when the impugned termination notice and the impugned termination order came to be

issued by the respondents against the original petitioner, he was still on probation.

11) As per Rule 16 of the CRPF Rules, all members of the Force are to be enrolled for a period of three years and during this period of engagement, they are liable to be discharged at any time on one month's notice by the appointing authority. It further provides that at the end of this period, those not given substantive status shall be considered for quasi-permanency under the provisions of the Rules of 1965. It also provides that those members of the Force who are temporary are liable to be discharge on one month's notice. Rule 5(1) of the Rules of 1965 provides that services of a temporary Government servant are liable to be terminated at any time by a notice in writing given either by the Government servant to the appointing authority or by the appointing authority to the Government servant.

12) From a conjoint reading of Rule 16 of the CRPF Rules, Rule 5(1) of the Rules of 1965 and clause (a) of the conditions of appointment of the petitioner, there is no manner of doubt in concluding that services of the petitioner were liable to be terminated by giving one month's notice during the probation period.

13) In the present case, the respondents have issued the impugned notice dated 13.08.2008, informing the petitioner

that his services shall stand terminated upon expiry of one month from 13.08.2008. The respondents have produced the record which shows that the said notice has been received by the original petitioner and his signatures are appearing on the AD card, which forms part of the record. Once the original petitioner, upon receipt of notice of termination dated 13.08.2008 did not rejoin his duties within the period of notice, the respondents were well within their rights and competence to terminate his services without assigning any reason, which they did by issuing impugned order dated 15.09.2008.

14) It is pertinent to mention here that the respondents had one more reason to terminate services of the petitioner. As per the conditions of appointment of the petitioner, his appointment was subject to the condition that there is no civil or criminal case pending against him. It has been submitted by the respondents that FIR No. 157/2003 for offences under Section 307 and 148 RPC registered with Police Station, Handwara, was pending against the petitioner and, in fact, challan had already been filed against him before the concerned court at the time when he was appointed as Constable with the respondents. The judgment, which has been produced by the petitioner along with the writ petition, is dated 08.06.2010, meaning thereby that, at

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the time of his appointment as Constable with the respondents, the challan was still pending against the original petitioner.

15) As already stated, as per the conditions of appointment, the petitioner was liable to be terminated by giving one month's notice under Rule 16 of the CRPF Rules read with Rule 5(1) of the Rules of 1965, in case it is found that any criminal case is pending against him. Therefore, in terms of conditions of appointment of the petitioner, his services were liable to be terminated once it came to the notice of the respondents that a criminal case was pending against him at the time of his appointment.

16) The defence of the petitioner that he could not attend duties due to the reason that his house was attacked by the militants, also appears to be an afterthought because the documents placed on record in this behalf appear to have been manufactured with a view to create a defence. According to the petitioner, the incident of attack by the militants had taken place on 01.07.2008, but, as per the documents placed on record by the petitioner, the report in this regard has been lodged on 23.10.2009, and by that time his services had already been terminated by the respondents. From the sequence of events, it can safely be

inferred that the case set up by the petitioner is nothing but an afterthought which deserves to be rejected. The appellate authority is, therefore, right in rejecting the defence of the petitioner.

17) For the foregoing reasons, I do not find any ground to interfere in the impugned orders. The writ petition lacks merit and is dismissed accordingly.

18) The record be returned to the learned counsel for the respondents

SRINAGAR

31.07.2026

"Bhat Altaf-Shergati"

Whether the **judgment** is reportable: **YES/NO**

(Sanjay Dhar)
Judge