

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13406 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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DILIP S PATIL, POLICE CONSTABLE,

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 13406 of 1993  
MR RR VAKIL for Petitioner.  
Mr. LR Poojari, AGP for Respondents.

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CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 31/03/2004

ORAL JUDGEMENT

The petitioner, who was at the relevant time sent for training for the post of Police Constable, had preferred the present Special Civil Application under Article 226 of the Constitution of India challenging the order passed by the respondents by which the petitioner was discharged from service.

2. The petitioner had applied for the post of Armed Police Constable and after passing the interview and other tests he was selected as Armed Police Constable on 26th August 1992. That thereafter the petitioner was required to undergo one year training course and therefore the petitioner was directed to join the Railway Police Headquarter, Vadodara on 13.11.1992 and was sent for one year training in Police Training School, Vadodara. It is pertinent to note that completion of police training is must and before the services of a candidate as Armed Police Constable is confirmed he is required to undergo the training and pass the same and till then the services of the candidate is purely temporary and adhoc.

3. That during the course of the training by order dated 23.11.1993 the petitioner was discharged from service and his name was struck off.

4. That being aggrieved and dissatisfied with the said order dated 23.11.1993 passed by the respondents in discharging the petitioner from services after 7 days notice, the present Special Civil Application is filed.

5. It is the contention of the petitioner that as he was selected and appointed as Armed Police Constable after due selection and medical check-up the respondents could not have terminated the services of the petitioner without holding any inquiry and without giving any opportunity of hearing to the petitioner. The petitioner has also given reasons in the petition for not remaining present in the training on certain days and has tried to justify in remaining absent in the training.

6. On the other hand, an affidavit-in-reply has been filed on behalf of the respondents stating that after the selection the petitioner was sent for training for a period of 8 months to Police Training School at Vadodara and during the period of training the petitioner has without prior permission of his superiors remained absent from training on various dates from 28th February 1993 to 19th September 1993. So, looking to the conduct of the petitioner, remaining absent in training and showing irregularity in attendance reflects indiscipline on the part of the petitioner, which is not befitting to that of an aspiring candidate who intends to become a responsible Police Officer, and it also frustrates the very purpose of the training.

7. Though the matter was adjourned time and again,

nobody remained present on behalf of the petitioner and therefore this Court is constrained to dispose of the present Special Civil Application on merits, exparte.

8. Considering the memo of Special Civil Application and affidavit-in-reply, it seems that the petitioner, who was appointed as an Unarmed Police Constable on adhoc basis, has behaved in a most indisciplined manner. Training is required for the purpose of getting appointment as Armed Police Constable. It was found by the authorities that during the period of training the petitioner has without prior permission of his superiors had remained absent on various dates from 28th February 1993 to 19th September 1993. The factum of remaining absent has not been denied by the petitioner even in this petition. So, by remaining absent from training and showing irregularity in attendance, the petitioner has behaved in a very indisciplined manner which is not befitting to a candidate aspiring to become a responsible police officer. When the petitioner has himself admitted the factum of remaining absent, there is no question of giving opportunity, more particularly when the petitioner was appointed on a temporary basis, and when at the initial stage itself even before he could complete the training and before he is appointed on a permanent basis, he has behaved in a indisciplined manner, he is not a person who can be appointed as a responsible Police Officer on permanent basis. By discharging the petitioner from service and not allowing the petitioner to appear in the subsequent examinations for completion of training, it cannot be said that in the facts and circumstances of the case the respondents have committed any irregularity.

9. Under the circumstances, considering the affidavit-in-reply and more particularly considering the fact that the petitioner had remained absent without prior permission of his superior officers even during the course of training and even before he is made permanent, and looking to the conduct of the petitioner during training, there is no substance in the present Special Civil Application and the same is required to be dismissed. Rule is discharged with no order as to costs. Interim relief stands vacated.

rmr. [ M.R. Shah, J.]