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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No.3072/2014

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11th March, 2015

SUNITA RANGA

..... Petitioner

Through: Ms.Sumati Jumrani, Advocate.

versus

PUNJAB NATIONAL BANK & ORS.

..... Respondents

Through: Mr.Jagat Arora, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Article 226 of the Constitution of India, petitioner, an employee of the respondent no.1/Punjab National Bank seeks quashing of the letter dated 06.5.2014 holding the petitioner ineligible for promotion to the post of MMG Scale-II from the post of JMG Scale-I. The only ground of lack of eligibility of the petitioner as argued before this Court and so stated in the counter-affidavit, is that the petitioner was required to have 21 months work experience in the post of JMG Scale-I, but she was short by 3 days because the petitioner had experience only of 20 months and 27 days. The relevant averments in the counter-affidavit read as under:-

“

G. The petitioner herein applied for promotion to MMG Scale II under Merit/Fast Track Channel. In terms of Clause 1 of the aforesaid Circular No.206 dated 02.04.2014, the period of 175 days spent on unauthorized leave was to be excluded while calculating the service period in feeder cadre, JMG Scale I. Accordingly, her date of promotion to the JMG Scale I was notionally advanced by 175 days i.e. from 09.01.2012 to 03.07.2012. Thereafter, her total service period in JMG Scale I was calculated and it equalled only 20 months and 27 days as on 01.04.2014 which was less than the requisite period of 21 months (1 year and 9 months) as stipulated in Circular 206 dated 02.04.2014. Thus, the petitioner was not eligible to appear for promotion through merit/fast track channel. As such, the petitioner could not be considered for promotion from JMG - Scale I to MMG Scale - II. The respondent Bank has rightfully considered the service records of the petitioner and guidelines stipulated in the promotion policy and concluded that the petitioner does not qualify for participating in promotion process from JMG Scale – I to MMG Scale – II.”

2. Learned counsel for the petitioner however places reliance upon the order dated 09.8.2012 passed by the respondent no.1/Bank in the disciplinary proceedings against the petitioner of accepting the absence of the petitioner on duty from 10.1.2012 on account her being sick. This order dated 09.8.2012 reads as under:-

“ Order in relation to charge-sheet dated 26.04.2012 in disciplinary proceedings against Smt. Sunita Ranga (57860) Officer, Branch Burhibawal, Alwar previously Branch Umrain.

Smt. Sunita Ranga, Officer, was issued charge-sheet dated 26.04.2012 in disciplinary proceedings for not reporting for duty in branch Umrain and unauthorized absence under Regulation 6, PNB Officer Employees (Disciplinary and Appeal) Regulation 1977 in which the following charges were made:-

Smt. Sunita Ranga upon promotion from clerical cadre to JMG Scale I, had taken charge on 09.01.2012 at Circle Office Alwar for initial appointment. The same day she was placed at branch Umrain and was relieved for branch Umrain. The next day on 10.01.2012, Smt. Ranga was to report for duty at branch Umrain which she did not do. Smt. Ranga was to report for duty at branch Umrain which she did not do. Smt. Ranga neither took charge at branch Umrain nor did she give information in relation to her absence. Like this, Smt. Ranga from 10.01.2012 is continuously absent in an unauthorized manner.

Smt. Ranga was advised that if she wants to say something in her defence in relation to the charges then within 7 days of receipt of letter she can send the same in writing. Smt. Ranga vide email dated 04.06.2012, in response to the charge-sheet denied the charges against her. Thus to determine the veracity a departmental inquiry proceeding was initiated and Sh.J.K. Gupta, Senior Manager, Circle Office, Alwar was appointed as Inquiry Officer. During inquiry proceedings Smt. Ranga accepted the charges made against her and informed that due to illness she was unable to join duty.

After carefully perusing and analyzing the charge-sheet issued to Smt. Ranga, her response, inquiry report and all documents relating to treatment undergone during illness. I have reached the conclusion that Smt. Ranga was ill due to which she was unable to report for duty in her office but she did not furnish an appropriate response to the letters presented by the Circle Office and she did not present her explanation regarding her absence along with relevant documents. Smt. Ranga has accepted the charges against her. At present, based on satisfactory report regarding Smt. Ranga's punctuality and attendance, I advise caution in the future regarding the charges against her.

Smt. Ranga be accordingly informed.

Sd/-

Circle Head/Disciplinary Officer.” (underlining added)

3. A reading of the aforesaid order shows that the respondent no.1/Bank has not treated the services of the petitioner to be *dies non* and that the petitioner was held to be on unauthorized absence from 10.1.2012 till

03.7.2012, and in fact the disciplinary authority has accepted the illness as the reason for the petitioner not joining of her duties. Therefore, once there is no unauthorized absence of the petitioner from 10.1.2012 till 03.7.2012, and which is also conceded on behalf of the respondent no.1/bank, the petitioner will not fall short of the requisite experience of 21 months in the post of JMG Scale-I.

4. I may note that the petitioner pursuant to the interim order of this Court dated 16.5.2014 was allowed to participate in the examination for MMG Scale-II, and the petitioner was successful in the examination. Therefore, the petitioner would be entitled to be promoted to the post of MMG Scale-II on the allowing of this writ petition.

5. In view of the above, the writ petition is allowed and it is held that the petitioner is entitled to be promoted to the post of MMG Scale-II from the post of JMG Scale-I, and it cannot be held that the petitioner did not have 21 months work experience in the post of JMG Scale-I.

6. The writ petition is allowed and disposed of accordingly. No costs.

MARCH 11, 2015
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VALMIKI J. MEHTA, J