

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 8110 OF 2008

ORDER:

This Writ Petition is filed seeking a direction to the respondents to consider the representation of the petitioner dated 28.02.2008, duly setting aside the order of the 2nd respondent Deputy General Manager, dated 09.03.2007.

The petitioner was stated to have been appointed as Clerk-cum-Typist on 07.07.1997 in the 1st respondent Canara Bank. According to the petitioner, on 07.11.2005, he suffered acute back pain, hence, he was advised bed rest. While so, he was issued a letter dated 22.11.2006 setting out that he had been absented from duty from 07.11.2005 onwards and if he does not report to duty within 30 days of receipt of the said letter, it would be construed that he has voluntarily vacated the employment, in terms of the Head Office Circular No. 175/05 dated 20.06.2005. The petitioner reported to duty on 28.12.2006, but however, absented himself from 29.12.2006 onwards. The respondent bank, therefore, issued the notice dated 09.03.2007, once again, sensitizing the petitioner that if he does not report to duty within 30 days thereafter, the Head Office Circular dated 20.06.2005 would be invoked treating him as to have voluntarily vacated the employment. On 28.02.2008, it is stated that the petitioner submitted a representation, but the same has not been considered so far. Hence, the Writ Petition.

In the counter-affidavit filed by the respondent bank, it has been categorically asserted that the petitioner had absented himself on earlier occasion for 460 days, but however, in terms of the VIII Bipartite Settlement – Provisions Regarding Voluntary Cessation of Employment, under Circular No. 157/05, dated 20.06.2005, two notices, as mandated, have been issued to the petitioner. It has been further stated that since the petitioner still had chosen to absent himself from duty, it was deemed that he had voluntarily vacated the office. Therefore, the question of violation of the principles of natural justice, as alleged, does not arise.

Learned counsel for the petitioner submits that his client was not in the know of issuance of the letter dated 09.03.2007 and only on 07.01.2008, when he approached the bank for getting gratuity and provident fund sanctioned, he was informed about the issuance of the said letter, hence, he approached the Circle Office on 26.02.2008 and obtained copies thereof. He further submits that it is only on account of the serious ill-health, the petitioner could not attend to duty and since the petitioner was not served with letter dated 09.03.2007, it has to be construed that he was denied the opportunity to put-forward his case, which amounts to violation of the principles of natural justice. Therefore, the learned counsel submits that the letter dated 09.03.2007 is liable to be set aside.

Heard Sri A. Suryanarayana, learned Standing Counsel for the respondent bank.

After arguing the matter, at this length, the learned counsel for the petitioner fairly submits that though the petitioner has challenged the letter dated 09.03.2007, due to afflux of time, he would be satisfied if the representation dated 28.02.2008 is considered by the respondents, particularly keeping in view the reasons set out therein for his absence from duty and the medical reports.

In view of the innocuous prayer, which the petitioner seeks, without expressing any opinion on the merits of the matter, the 1st respondent is directed to consider the representation of the petitioner dated 28.02.2008 within eight weeks from the date of receipt of a copy of this order.

With this, the Writ Petition stands disposed of.

The miscellaneous Applications, if any shall also stand disposed of.

13th December 2016

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CHALLA KODANDA RAM, J