

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1008 of 2016 (O&M)

Date of Decision: August 03, 2016

Ashish Someshwar Murarkar

.....Appellant

versus

Vijay Bank and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.S.S.Pathania, Advocate, for the appellant.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The appellant was appointed as Senior Manager (Marketing) in Scale-III in the respondent-bank on 07.08.2007. As per the terms and conditions of appointment (P-2), he was kept on probation for a period of two years which could be further extended at the discretion of the Bank for a period not exceeding one year.

[2] The appellant's case is that he was selected keeping in view his specialization in marketing but soon after his appointment, he was appointed as general Banking Officer. He represented for the change of posting but that was declined by the Competent Authority.

[3] The probation period of the appellant was extended as his working performance during the probation period was assessed to be not satisfactory. His performance continued to be 'below satisfactory' after his

transfer from Regional Office to Patiala Branch as a Senior Manager (Generalist) on 23.03.2010, namely, during the extended period of probation. The appellant was served with an advisory, taking serious note of indulging in unnecessary direct correspondence without proper recommendations from the Branch Head. Thereafter also, several advisory notes including those of 'below satisfactory' work and conduct were communicated to the appellant during six months' extended period of probation from 26.05.2010. As the authorities were still dissatisfied with his work-performance, the appellant's services were dispensed with during probation period vide order dated 22.11.2010.

[4] The appellant preferred a Mercy Appeal before the higher authorities and the only plea taken was that keeping in view his adverse family circumstances, the severe punishment like termination of services may not be imposed. He also averred that being 'specialized' in marketing, he ought not to have been given the duties other than such specialization. Since the Superior Authority declined to interfere with the order, the appellant approached this Court and learned Single Judge vide a self-speaking order has dismissed his writ petition.

[5] We have heard learned counsel for the appellant at a considerable length and gone through the record.

[6] The principal contention revolves around the circular dated 25.08.2008 (P-4) whereby it is claimed that probation period of all the officers like the appellant was reduced from two years to six months and applying that circular some similarly placed officers were confirmed also. On this premise, it is asserted that the appellant has been subjected to discrimination and that respondent Nos.2 & 3 have spoiled his service

career out of personal vendetta.

[7] In our considered view, none of the contentions merit acceptance. We say so for the reason that the circular dated 25.08.2016 does not provide and cannot be construed to hold that the probation period would abruptly come to an end after six months even if the authorities are dissatisfied with the work and conduct of a probationer. The said circular provides that the Competent Authority has to confirm an officer if his work and conduct is satisfactory during the reduced term of probation. That apart, the appellant never challenged the order extending his probation period. He thus cannot be heard at this stage to say that his probation period ought to have been reduced to six months only.

[8] Similarly, the plea of discrimination has no factual or legal foundation, for those whose work and conduct was unsatisfactory during the probation period have not been confirmed or shown the exit door, arbitrarily or on pick and choose basis.

[9] As regard to the allegation of bias against respondent Nos.2 & 3, there is nothing on record to draw such an inference. As is evident and is not disputed by learned counsel for the appellant that the appellant as well as respondent Nos.2 & 3 belong to different regions of the country. There was no service rivalry amongst them to develop any bias against the appellant. If respondent Nos.2 & 3 have taken some harsh decisions in performance of responsibilities, it cannot be termed as a case of bias against the appellant. The scope of judicial review in matters like completion of probation period and/or dispensation with the services of an employee on account of unsatisfactory work and conduct, is expected to focus on the decision making process only. The Court, whether in exercise of writ

jurisdiction or intra-court appeal, cannot substitute its own opinion in place of the employer. Owing these limitations, we do not find any merit in this appeal.

[10]Dismissed.

[SURYA KANT]
JUDGE

August 03, 2016
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No

LPA No.1008 of 2016 (O&M)

[5]

CM No.2084 of 2016 in
LPA No.1008 of 2016

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Ashish Someshwar Murarkar versus Vijaya Bank and others

Present : Mr.S.S.Pathania, Advocate,
for the applicant-appellant.

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Since we have decided the appeal on merits, no separate order
is required to be passed on the application for condonation of delay of 84
days in filing the appeal.

(SURYA KANT)
JUDGE

August 03, 2016
mohinder

(SUDIP AHLUWALIA)
JUDGE