

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 26018 of 1998

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, by the petitioner, seeking a writ of mandamus to declare the action of the 3rd respondent in terminating the services of the petitioner vide orders dated 12.09.1995 and the letter dated 09.04.1998 of the 4th respondent, as illegal and arbitrary. A consequential direction is also sought to the respondents to reinstate the petitioner into service with all consequential benefits.

2. Heard Sri A. K. Jayaprakash Rao, learned counsel for the petitioner, and Mr. K.V. Simhadri, learned standing counsel for Bank of Maharashtra, appearing for the respondents.

3. The case of the petitioner, in brief, is that he joined the respondent bank on 02.09.1976 as Clerk in Pune. In the year 1982, he was promoted as Assistant Manager (Grade –I Officer) and, thereafter, promoted as Deputy Manager (Grade-II Officer). He applied for leave for 30 days i.e., from 03.01.1994 to 02.02.1994 to visit Makkah in Saudi Arabia. After his leave application was sanctioned, he proceeded to the pilgrimage. After expiry of the period of leave, due to unavoidable circumstances including health grounds, his leave was used to be extended from time to time. He furnished his address in Saudi Arabia in the applications for extension of leave. As he could not receive the notices sent by the respondent bank to his

residential address, on 12.09.1995 the 3rd respondent issued a notice of termination of his services informing that his services would automatically stand terminated upon expiry of three months from the date of the order, without any further communication being needed to be addressed to him. Thereafter, the 4th respondent terminated his services with effect from 12.12.1995 by orders dated 09.04.1998. The same is questioned in this writ petition.

4. Learned counsel for the petitioner contends that though the petitioner submitted applications to the respondent bank seeking extension of the leave, at no point of time the bank informed him about the rejection of his applications, that the procedure as contemplated under Regulation 20 of the Officers' Service Regulations, 1979 (for short 'the Regulations') was not complied with, that no opportunity was given to the petitioner before passing the order of termination, that the respondent bank did not conduct any enquiry before terminating the petitioner from service, that as per Regulation 20 of the Regulations, it is the Chairman and Managing Director, who is competent authority, but in the instant case, the impugned order was passed by the Deputy General Manager, who is not the competent authority, that before initiating action under Regulation 20 of the Regulations, the respondent bank ought to have published notice in the local newspapers and thereafter they ought to have terminated the services of the petitioner, and that, therefore, he seeks interference of this Court to set aside the order of termination.

5. Learned standing counsel for the respondent bank submits that initially the petitioner applied for leave for 30 days i.e., from 03.01.1994 to 02.02..1994, thereafter, the respondent bank sent several communications to the address furnished by the petitioner at Saudi Arabia as well as to his local address at Hyderabad, that only after following the procedure as contemplated under Regulation 20 of the Regulations, the services of the petitioner were terminated, that no enquiry is necessary, as per Regulation 20 (1) (a) of the Regulations as amended from time to time read with the guidelines issued by the Government in terms of Regulation 20 (1) (a) of the Regulations vide Ministry of Finance (Banking Division) letter dated 10.04.1992, that the communication given by the 3rd respondent vide letter dated 12.09.1995 is only for conveying the decision of the Chairman and Managing Director of the respondent bank and, therefore, the termination is in accordance with law, and that the order of the termination is justified for the reasons that the petitioner went abroad for two months but remained absent for more than permissible limits.

6. As seen from the original records maintained by the respondent bank, it is clear that notices have been sent to the address given by the petitioner to the Kingdom of Saudi Arabia as well as to the local address where the petitioner was residing. The decision to terminate the services of the petitioner was taken by the Chairman and Managing Director on 26.06.1995. In the letters written by him, the

petitioner had stated that as the postal services in Saudi Arabia are not trustworthy, he got posted some letters in India through the persons who were coming to India, so that the letters could reach the respondent bank. The plea of the petitioner about his absence from 1995 till 1998 as to what kind of ailment he was suffering is of doubtful nature and it is also not clearly stated by him. When the employees apply for leave, it is their bounden duty to ascertain whether their leave applications are considered or not, and if such leave applications are rejected, it is the responsibility of the employer to communicate such rejection to the employees. The contention of the learned counsel for the petitioner that the action of the respondent bank in terminating the services of the petitioner ought to have been initiated, after publication of notice in the local newspapers, can not be sustained, as Regulation 20 of the Regulations does not contemplate the publication of notice in the local newspapers before initiating the action of terminating the services of the employee. Therefore, the writ petition is devoid of merits and it is, accordingly, dismissed.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

30th November, 2017
cbs

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WRIT PETITION No. 26018 of 1998
(dismissed)

30th November, 2017

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