

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CWP-19787-2014 (O&M)
Date of decision:13.11.2017**

Balbir Singh Saini

....Petitioner

Versus

Punjab and Sind Bank and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. H.C.Arora, Advocate for the petitioner.

Mr. R.Kartikeya, Advocate for the respondents.

P.B. BAJANTHRI, J. (ORAL)

In the present writ petition, petitioner has challenged orders of the disciplinary, appellate and reviewing authorities dated 13.03.2013, 30.05.2013 and 15.10.2013 respectively (Annexures P10, P12 and P14).

2. While working at Jalandhar, petitioner's services were drafted to Delhi (Head Office) on 11.08.2012. He has joined at transferred post and place on 13.08.2012 without availing joining time. He had applied for joining time from 10.09.2012 to 15.09.2012 whereas sanction was given by the respondent-Bank from 10.09.2012 to 12.09.2012. During the leave

period petitioner is stated to have suffered illness. Consequently, he has requested for medical leave and other facilities. While applying for leave he had mentioned that he would be visiting Jalandhar. On the other hand, he has visited Amritsar. In other words, visiting Amritsar has not been made known to the respondent-Bank. Consequently, respondent-Bank proceeded to initiate inquiry against the petitioner for not informing respondent-Bank that he would be visiting Amritsar. The disciplinary proceedings were concluded in treating the period from 10.09.2012 to 31.12.2012 the date on which he attained age of superannuation and retired from service as unauthorized absent. Hence, the present petition in challenging the action of the disciplinary, appellate and reviewing authorities.

3. Learned counsel for the petitioner submitted that necessary material has been placed before the competent authority in respect of his illness along with the medical certificate etc. In fact petitioner was subjected to medical examination by the medical board in which medical board has given finding in favour of the petitioner. Despite these factual aspects, the disciplinary authority proceeded to treat the period from 10.09.2012 to 31.12.2012 as unauthorized absent. Consequently, salary which has been paid during the aforesaid period is said to be adjusted from the retiral benefits. The respondents failed to appreciate the factual aspects that too at the fag end of the petitioner's service. Therefore, decision of the disciplinary authority and next higher authorities are not in accordance with law and their decisions are highly arbitrary and illegal.

4. Per contra, learned counsel for the respondents while resisting the

petitioner's contentions submitted that having regard to the conduct of the petitioner to the extent that he has failed to inform the respondent-Bank that he would be visiting Amritsar during his visit to Jalandhar during the leave period amounts to misconduct. Therefore, rightly disciplinary authority initiated disciplinary proceedings and concluded the proceedings against petitioner. Therefore, there is no infirmity in the orders so also no substance in the petitioner's contentions.

5. Heard learned counsel for the parties.

6. Undisputed facts are that petitioner has availed leave from 10.09.2012 to 15.09.2012. The respondents-Bank have sanctioned leave from 10.09.2012 to 12.09.2012. Petitioner fell ill during the leave period to that extent he has produced necessary medical certificates. The same has been appreciated by the medical board and expressed its opinion in favour of the petitioner. In this back ground it is not appropriate for the disciplinary authority to come to the conclusion that petitioner failed to inform the respondent-Bank that he would be visiting Amritsar. Decision of the respondent-Bank is too harsh merely non-disclosure of the place of visit by the petitioner other than the mentioned in the leave application or communication. Therefore, orders of disciplinary, appellate and reviewing authorities dated 13.03.2013, 30.05.2013 and 15.10.2013 respectively (Annexures P10, P12 and P14) are hereby set aside. Consequently, concerned respondent is hereby directed to refund the salary for the period from 10.09.2012 to 31.12.2012 stated to have been recovered and adjusted from the retiral benefits. The above exercise shall be completed by the

respondent-Bank within a period of 3 months from today.

7. Accordingly, CWP stands allowed.

13.11.2017

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No