

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

CWP No.4078 of 2015(O&M)

Date of Decision:04.12.2017

P.C.Negi

.....PETITIONER

V/S

State Bank of India and others

.....RESPONDENTS

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

Present: Mr.R.S.Manhas, Advocate for
for the petitioner.

Mr.Kapil Kakkar, Advocate for the respondents.

P.B.BAJANTHRI J. (ORAL)

Petitioner has challenged the validity of the order dated 08.06.2013 (Annexure P-25) by which he has been ordered to voluntarily resigned from the bank w.e.f. 1.06.2013. He also questioned the appellate authority's order dated 30.06.2014.

The petitioner while working as a Manager, personal Banking Division at Naraingarh, District Ambala (Haryana), has sent a communication from the Village Duni, Post Kalpa, District Kinnaur, Himachal Pradesh stating that doctor has advised him to take 10 days rest from 20.08.2012 and it was also informed that the medical certificate would be produced at the time of joining. Thereafter he was keep on sending leave letter on medical ground. In support of it, certain medical certificates were produced. From nearly nine months, he was making correspondence. On 03.11.2012 (inadvertently typed as 03.11.2011), the respondents directed the petitioner to get himself medically examined from C.M.O. Civil Hospital Post Kalpa, District Kinnaur and submit medical report. Thereafter in the month of January, 2013, he was directed to

appear before the Medical Board on 15.02.2013. For all these correspondences of respondent-Bank, there was no response from the petitioner. On 03.03.2013, he submitted an application explaining that due to heavy snowfall, he could not respond to the communication of the respondents in respect of appearing before the Medical Board and, therefore, the action of the respondents in declaring that the petitioner is deemed to have voluntarily vacated his services which amounted to voluntary resignation from service of the bank w.e.f. 01.06.2013, is arbitrary and illegal. It was further submitted that before passing such order, he has not been heard in the matter. Further it was contended that Appellate Authority's order is not a speaking order, hence both the orders of the appointing authority and appellate authority are liable to be set aside. In support of the petitioner's contention, counsel relied on the decision of the Bombay High Court in the case of **Sunita Devi Vs. State Bank of India, 2009 (1) B.C.R. 767.**

Per contra, learned counsel for the respondents while resisting the petitioner's case vehemently argued that having regard to the conduct of the petitioner to the extent that he remained absent for about 09 months, while stating that he is under medical treatment and when he was subjected to medical examination, he failed to appear. Thereafter, in the month of March 2013, he has taken various contentions that he was unable to move from the place where he was residing due to heavy snowfall. Such contention is an afterthought for the reasons that when the notices were issued in the year 2012 and further in the month of January 2013, for his appearance before the medical Board on 15.02.2013, the petitioner had enough time to make necessary communication to the respondent-bank in respect of his inability to move from

the place where he was residing due to heavy snowfall. That apart, on 01.05.2013, a specific notice was given to the petitioner stating that in terms of Rule 40(3) of the State Bank of India Officers Service Rules, 1992, action would be taken. Despite all these facts and circumstances, petitioner has not utilized the opportunity given by the respondent authorities in reporting back to the duty. Therefore, there is no infirmity in the order dated 08.06.2013 and appellate authority's order dated 30.06.2014.

Heard learned counsel for the parties.

Petitioner being a branch Manager who is responsible officer in the respondent-bank was duty bound to respond to various notices issued to him by the respondent-Bank. He remained absent from duty for one or the other reason for nearly nine months from 17.08.2012 till 08.06.2013. In other words, petitioner had never reported to duty from i.e.17.08.2012 till 08.06.2013. From time to time petitioner has disobeyed the direction issued by the Official respondents and in particular asking him to report before the medical authorities for medical examination. He has failed to utilize such opportunities. Therefore, the petitioner's contention that the respondents' action is illegal and arbitrary, cannot be accepted. As far as reliance placed by the petitioner in Sunita's case (*supra*) is concerned, the same is distinguishable having regard to the facts of the case. In the case of *Sunita (supra)*, the respondent-State Bank of India had not informed petitioner therein about taking action under Rule 40(3) of the State Bank of India Officers Service Rules, 1992 whereas in the present case, on 01.05.2013, respondent-bank have made crystal clear in para 2 that they are going to take action under Rule 40(3) of the State Bank of India Officers Service Rules, 1992. Hence the aforesaid decision is distinguishable to

the present case.

In so far as contention that the order of the appellate authority is a non-speaking order is concerned, it is to be noted that conduct of the petitioner read with the various communications made by the official respondent-bank, it is evident that petitioner has been given sufficient time for more than eight months asking him to report for duty or to appear for medical examination, but the same has not been utilized. Therefore, the order of the appellate authority need not be a speaking order which it confirms the appointing authority order dated 08.06.2013.

Accordingly, I find no grounds to interfere with the order dated dated 08.06.2013 (Annexure P-25) and the appellate authority's order dated 30.06.2014. Hence, present petition is dismissed.

At this stage, learned counsel for the respondent-bank submitted that petitioner has been provided all terminal benefits including pensionary benefits. In view of these facts and circumstances of the case, petitioner is not entitled for reinstatement in service.

**(P.B.BAJANTHRI)
JUDGE**

04.12.2017
Anjal

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No