

...

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18934-2018

Date of Decision : August 01, 2018

Devender

.... Petitioner.

Versus

Allahabad Bank and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. P.K. Rohilla, Advocate
for the petitioner.

SHEKHER DHAWAN, J.

Present writ petition under Article 226 of the Constitution of India is for issuance of a writ in the nature of certiorari to quash order dated 12.10.2017 (Annexure P/10) whereby services of the petitioner have been terminated and order dated 24.04.2018 (Annexure P/18), by which the appeal filed by the petitioner was rejected by the Appellate Authority.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner was appointed to the post of Probationary Officer in JMG Scale-I in Allahabad Bank on 21.01.2013 vide appointment letter dated 21.01.2013 (Annexure P/1). The petitioner was put on probation for a period of two years which was extendable as per Annexure P/1. Thereafter he was transferred from Lakhmipur Branch, Uttar Pradesh to Noorwala

...

Branch, Panipat on 4.7.2006. On 14.02.2017, the petitioner applied for Privilege Leave (PL) for his marriage purpose and the same was sanctioned by the authority. As per the petitioner, he met with an accident and he was unable to walk and sit, which fact he had informed to respondent No.4. On 5.4.2017, the petitioner received a communication from Zonal Office of the bank about his absence and for joining duty. On 19.4.2017, the petitioner sent a representation for grant of medical leave with a copy of the medical certificate explaining his injury on the back and made a request that he be treated on leave till he re-joins his duties. As per the petitioner, his two months' salary was also withheld by the respondent-Bank and he is entitled to the same.

3. Learned counsel for the petitioner contended that the petitioner had applied for leave on medical grounds and that is why, he could not join his duties. The respondent-bank passed the order of termination on 12.10.2017 (Annexure P/10) and the appellate authority without considering any ground taken by the petitioner, rejected his appeal vide order dated 24.4.2018 (Annexure P/18). There was no intention on the part of the petitioner not to join his duties except for his inability on account of his ailment as he had met with an accident. The petitioner had sent request for grant of leave and thereafter for extension of leave on medical grounds, but the same has not been allowed. In support of his arguments, learned counsel for the petitioner placed reliance upon judgments from Coordinate Benches of this Court in **Rajinder Singh Vs. Punjab and Haryana High Court, 2017(3) SCT 38; Chander Bhan**

...

Singal Vs. State of Haryana and others, 2016(3) SCT 540; Suresh Punia Vs. State of Haryana and others, CWP-7130-2015, decided on 11.05.2017 and **Tek Chand Vs. State of Haryana and others, CWP-17750-2015**, decided on 19.04.2017.

4. Having considered the submissions made by learned counsel for the petitioner and appraisal of the record, this Court is of the considered view that there is no dispute on the facts that the petitioner joined the service on 21.1.2013 and thereafter, he was transferred from Lakhmipur Branch to Noorwala Branch, Panipat on 4.7.2016. As is evident from the file, the petitioner was on probation and had not completed the same. His long absence was never sanctioned by the respondent-Bank, rather he was repeatedly asked to resume his duties vide letter dated 5.4.2017 and reminders dated 17.5.2017 and 19.8.2017, which was sent under registered cover. Thereafter publication was also issued in the news paper – Punjab Kesari (Haryana) on 08.09.2017, but the petitioner failed to resume his duties. In the light of that, the termination order was passed by the competent authority vide order dated 12.10.2017 (Annexure P/10), which was duly intimated to him and also conveyed vide publication in the news paper – Hari Bhoomi on 1.11.2017 (Annexure P/11). The appeal filed by the petitioner was dismissed vide order dated 24.04.2017 (Annexure P/18). It is the case of the respondent-bank that the petitioner had already exhausted the limit for grant of extra ordinary leave.

5. As is the case before the Court, the petitioner had originally applied for the privilege leave on account of his marriage on 14.2.2017

...

and thereafter, he failed to resume his duties till passing of the order of termination dated 12.10.2017 (Annexure P/10) despite communications rejecting the leave applied for by him vide letter dated 5.4.2017 and reminders dated 17.5.2017 and 19.8.2017. Needless to mention that the petitioner was on probation period. Hence, it was a case of voluntary abandonment of his service.

6. As regards to the judgments referred to and relied upon by learned counsel for the petitioner, there is no dispute on the legal point that in case there are justified grounds for proceeding on leave or for extension of leave on medical grounds, the same should be allowed, but the facts of the present case are totally different because it was practically not a case of proceeding on leave and remaining on unauthorized leave for a long period but the same amounts to abandonment on the part of the workman. Therefore, the judgments cited by learned counsel for the petitioner are of no help to him.

7. Identical matter was before Hon`ble Apex Court in **Vijay S. Sathaye Vs. Indian Airlines Ltd. & Ors, 2013(12) JT 407** and Hon`ble Supreme Court observed as under:-

“9. It is a settled law that an employee cannot be termed as a slave, he has a right to abandon the service any time voluntarily by submitting his resignation and alternatively, not joining the duty and remaining absent for long. Absence from duty in the beginning may be a misconduct but when absence is for a very long period, it may amount to voluntarily abandonment of service and in that eventuality, the bonds of service come to an end automatically without requiring any

...

order to be passed by the employer.”

8. Further, in **Aligarh Muslim University & Ors. Vs. Mansoor Ali Khan, AIR 2000 SC 2783**, Hon`ble Apex Court held that if a person is absent beyond the prescribed period for which leave of any kind can be granted, he should be treated to have resigned and ceases to be in service. In such a case, there is no need to hold an enquiry or to give any notice as it would amount to useless formalities.”

9. Similar view was taken by the Co-ordinate Bench of this Court in **Dr. Sonia Vs. State of Haryana and another, 2017(1) SCT 777**.

10. In view of the above, the present petitioner had abandoned the job and on the basis of that, impugned order, Annexure P/10 was passed and thereafter, the appellate authority rejected the appeal of the petitioner vide order, Annexure P/18. No ground is made out for interference in the impugned orders. The writ petition is without any merit and the same stands dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

August 01, 2018.
som

Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes