

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

LPA No. 1494 of 2018 (O&M)

Date of Decision: 08.10.2018

Devender

.....Appellant

versus

Allahabad Bank through his Zonal Head and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. R.K.Malik, Sr. Advocate with
Mr. Sunil Hooda, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

CM No. 4031-LPA of 2018

Heard. For the reasons mentioned in the application, delay of 28 days in filing the appeal is condoned. Application stands disposed of.

LPA No. 1494 of 2018

This intra court appeal under Clause X of the Letters Patent filed by the appellant is directed against the judgment and order dated 01.08.2018 passed by the learned Single Judge dismissing the writ petition filed by the appellant challenging the order dated 12.10.2017 terminating his services as well as order dated 24.04.2018 rejecting the appeal.

2. Undisputed facts relevant for the purpose of the case are as under:-

Appellant was appointed on the post of Probationary Officer in Junior Management Grade Scale-1 in Allahabad Bank vide appointment

order dated 21.01.2013. He was put on probation for a period of two years and as per terms of the appointment order, it was further extendable. The appellant made an application dated 14.02.2017 for grant of privilege leave on account of his marriage and the same was sanctioned. However, the appellant-petitioner did not join even after expiry of the period of leave. Vide letter dated 05.04.2017 the appellant-petitioner was advised to resume duties immediately on receipt of the letter failing which action shall be taken against him as per the terms and conditions governing his service. It was thereafter the appellant-petitioner made an undated application said to have been received by the Zonal Office, Chandigarh on 19.04.2017 that he was on leave upto 28.02.2017 and thereafter he suffered serious back injury due to bike accident and the Doctor advised him complete bed rest and medical certificate was also enclosed with the same. The respondent bank again vide letter dated 17.05.2017 informed the appellant-petitioner that the application does not record the date of alleged accident and the medical certificate dated 01.03.2017 advised him bed rest for 7 days and the subsequent certificate dated 09.03.2017 advised him bed rest for 5 days. Further the medical certificates dated 31.03.2017 advised bed rest for 15 days and 11.04.2017 again for 10 days which had lapsed long back. It was also pointed out in the said communication that between the period 2013-2016 during his posting in the earlier zone he was absent for 1016 days and again he was advised to resume duties. Similar letter was again issued to him on 19.08.2017. However, when the appellant did not resume his duties a final notice dated 08.09.2017 was issued indicating that in case he does not resume his duties immediately on receipt of this letter it will be presumed that he was no more interested in bank service and accordingly the same will be terminated. In the absence of any response from the appellant, vide letter dated 12.10.2017

his service was terminated with immediate effect on account of unauthorized absence from the duty and having failed to resume despite repeated letters and reminders. Since the appellant-petitioner refused to receive the copy of the same it was served upon him through publication in the newspaper.

3. Subsequently, the petitioner vide letter dated 17.01.2018 made a request to permit him to join duties as he was declared medically fit. In response to the said letter the respondent-bank gave a reply that his services have already been terminated by the competent authority which was duly served upon him through publication in the newspaper. Aggrieved the petitioner-appellant preferred an appeal before the Appellate Authority challenging the order of termination which was also dismissed.

4. It is undisputed fact that the appellant-petitioner joined his services on 21.01.2013 and was transferred to Noorwala Branch, Panipat on 04.07.2016. Till the time his services were terminated he continued on probation and was never confirmed. Equally admitted is the fact that he remained absent for 1016 days between the period 2013 till he was transferred to Panipat in 2016.

5. Apart from his earlier unauthorized absence from duty, after having applied for privilege leave on account of marriage on 14.02.2017 he failed to resume his duties despite repeated letters and reminders from the bank till his services were terminated on 12.10.2017. Such a long absence without authorized leave tantamount to voluntary abandonment of service and in such a situation the service come to an end automatically as observed by the Hon'ble Apex Court in ***Vijay S.Sathaye v. Indian Airlines Ltd. and others 2013(12) JT 407.***

6. Besides above facts noted by us, it is also to be taken into consideration that specific case set up in the writ petition as well as in the appeal by the appellant-petitioner is that he suffered injuries in his back due to bike accident. The same fact was also mentioned by him in the application made before the Employer. Surprisingly, the medical certificate does not refer to any injuries received in accident rather the medical certificate discloses that appellant was suffering from Osteophytes and reduced space between bones and Spondylolisthesis (spinal disorder). In the absence of any mention of the injuries caused by accident in the medical certificate, it is apparent that the appellant-petitioner has deliberately set up a false case in the writ petition as well as in the appeal and thus is not entitled for any indulgence on account of the said fact as well.

7. In view of the above facts and discussion and the fact that the impugned order passed by the learned Single Judge does not suffer from any infirmity we see no reason to interfere in the same. The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

08.10.2018

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√