



W.P(MD)No.5554 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5554 of 2021

and

W.M.P.(MD)No.4405 of 2021

N.Sathyanarayanan

... Petitioner

Vs.

1.The Chief General Manager,
State Bank of India,
Local Head Office,
Circletop House,
5th Floor, 16, College Lane,
Nungambakkam,
Chennai – 600 006.

2.The General Manager,
State Bank of India,
Local Head Office,
Circletop House,
5th Floor, 16, College Lane,
Nungambakkam,
Chennai – 600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent vide his proceedings in HR:ICT 3461 dated 15.12.2018 and consequential impugned order passed by the 1st respondent vide his proceedings in HR: 2131 dated



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24.07.2019 and quash the same as illegal and consequentially to direct the respondents to reinstate the petitioner in service as Deputy Manager with all other consequential and monetary benefits.

For Petitioner : Mr.Ajmalkhan, Senior Counsel,
For M/s.Ajmal Associates.

For Respondents : Mr.H.Arumugam,
Standing Counsel.

ORDER

Heard the learned senior counsel for the writ petitioner and the learned standing counsel for the respondent bank.

2.The writ petitioner joined the respondent bank as Assistant Manager in November 2008. He was promoted as Deputy Manager in June 2013. He met with an accident on 15.07.2018. For a number of days, he continued to be absent. Therefore, notice was issued on 30.08.2018 as to why on account of his unauthorized absence, he should not be deemed to have voluntarily vacated his service amounting to voluntary resignation. The petitioner did not respond. Thereafter, the appointing authority passed order dated 15.12.2018 holding that the petitioner is deemed to have voluntarily vacated his service amounting to voluntary resignation from the bank service with effect from 15.11.2018.



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Questioning the same, the petitioner filed appeal. The Appellate Authority also confirmed the order passed by the Original Authority. Challenging the said orders, the present writ petition came to be filed after lapse of almost two years.

3.The learned senior counsel for the writ petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition. On instructions from the writ petitioner, the learned senior counsel stated that the petitioner would forego his claim of backwages and would be satisfied, if he is reinstated in service. He called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The respondents have filed counter affidavit and the learned standing counsel took me through its contents. The primary contention of the learned standing counsel is that the petitioner was holding the rank of Deputy Manager. He ought to set an example for the other staff. But he chose to be unauthorizedly absent for a very long period. The appointing authority did not take straightaway any action. Only after issuing notice and since no reply was received from the petitioner, the impugned order came to be passed. When the Original Authority and the Appellate Authority have concurrently taken a view and the said approach cannot be characterized as perverse, the question of



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interfering with the same may not really arise. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. It must be noted at the very outset that the impugned orders came to be passed not for any act of misconduct on the part of the writ petitioner. The only allegation made against the writ petitioner is that he had unauthorizedly remained absent. It is well settled that an act of an employee will amount to misconduct only if there is a dishonest motive. The petitioner admittedly had met with an accident. The medical records produced before me clearly indicate that the impact was quite serious. The learned senior counsel would state that the petitioner went into depression and that is why he could not even respond to the notice issued by the authority. These being the facts, throwing out the petitioner from service though it may be styled as voluntarily vacating service is grossly disproportionate. In fact, the petitioner in his affidavit had clearly averred that whatsapp message was sent about his condition. The only mistake committed by the writ petitioner is that he did not submit a proper application. When the petitioner suffered an accident and was in a state of depression, merely because he did not submit a formal leave application, the same should not be put against him. In any event, the petitioner



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has clearly stated that he is giving up his claim for backwages. The case is one of unauthorized absence. The petitioner did not remain willfully absent. He suffered an accident. The situation was beyond his control. Hence, lenient approach is warranted.

6.In this view of the matter, the orders impugned in the writ petition are set aside. The respondents shall refer the petitioner to a medical board. If the medical board certifies that the petitioner is fit for duty, the petitioner shall be reinstated in service. The period with effect from 15.07.2018, till the date of reinstatement shall be treated as one of duty for all other purposes. In other words, the decision of the appointing authority will depend on the report to be submitted by the medical board. This exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

7.The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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