

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

CWP-11273-2022

Date of decision : 30.01.2023

Sangeeta

...Petitioner

Vs.

Bank of Baroda and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. S. S. Dinarpur, Advocate and
Mr. Lalit Rishi, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of Certiorari for setting aside the order dated 20.04.2019 (Annexure P-33) passed by respondent No.2 terminating her service, alongwith the orders dated 27.08.2020 and 20.11.2021 (Annexures P-37 and P-39, respectively), whereby her appeal as well as review application were also dismissed.

Learned counsel has argued that the petitioner joined the respondent-Bank of Baroda as Accountant-cum-Cash Clerk, who was subsequently promoted to the post of Junior Management Grade-I on 02.05.2001. He submits that through the impugned order, the petitioner has been dismissed from service on the ground of absence from duty and the appellate authority vide order dated 27.08.2020 has also affirmed the decision of the punishing authority without even considering the facts and circumstances of the case. He submits that vide order dated 22.11.2017 (Annexure P-6), petitioner was transferred from Yamuna Nagar to Panchkula and against the said transfer order, petitioner had given her representation dated 24.11.2017 (Annexure P-6-A) requesting for cancelling the transfer on the

ground that she being mother of disabled child cannot go out of Yamuna Nagar as she has created a support system to take care of her disabled child. According to learned counsel, in this regard, an application dated 13.12.2017 (Annexure P-11) was also given to the Commissioner Disabilities, Department of Social Justice and Employment, Panchkula. He has further invited the attention of the Court to recommendation of the Tribunal to contend that despite this, the case of the petitioner against her transfer was not dealt with sympathetically as her review was also dismissed on 20.11.2021.

Learned counsel further submits that the petitioner had even submitted her own medical record alongwith an application for leave dated 11.12.2017 (Annexure P-9) seeking time to join as she was suffering from typhoid. According to Mr. Dinarpur, learned counsel the impugned orders are bad in law and the same are not sustainable as the extreme punishment of dismissal has been imposed upon the petitioner. In support of his case, learned counsel has placed reliance upon the judgment passed by Hon'ble the Supreme Court in “Krushnakant B.Parmar Vs. Union of India and another”, 2012 AIR (SCW) 1633 and submitted that the petitioner could have been inflicted lesser punishment, therefore, interference is warranted by this Court.

During the course of hearing, it has not been disputed by learned counsel for the petitioner that father of the child also resides with them, but he has feigned ignorance about his employment or source of income.

After hearing the learned counsel and considering the submissions, this Court finds that the entire case of the employee hinges upon the grounds of her son's disability as well as her own sickness, which allegedly prevented her from joining the new place of posting at Panchkula. Concededly the working

hours of the petitioner were from 09.00 a.m. to 05.00 p.m. and the new place of posting is not situated at far away distance from Yamuna Nagar, which is approximately 70 kms and is conveniently connected by different modes of transportation. The argument of the learned counsel that she being mother is only responsible parent to take care of the disabled child is without any merit, as it cannot be believed that the father is not paying attention to the child or giving assistance to the petitioner. The alleged recommendation dated 13.12.2017 by Commissioner, Persons with Disabilities, Social Justice and Empowerment Department, Haryana also does not lend any strength to the case of the petitioner for lack of binding effect.

Notably, even a notice dated 18.12.2017 was issued to the petitioner calling her to join the duty with an intimation that in case she fails to join the duty, disciplinary action would be contemplated against her. Subsequently, the petitioner was subjected to departmental inquiry and through the impugned decision she was removed from the bank's service. Though after transfer, she drifted her stand from the disability of the child to her own illness and this shows that she had no inclination to join the new place of posting and this establishes her wilful absence from duty. The decision relied upon by learned counsel is not applicable in the facts and circumstances of this case as in the said case, the disciplinary authority had failed to prove the absence from duty, therefore, delinquent official was awarded compensation.

Apart from it, a perusal of the impugned order shows that the disciplinary authorities as well as the appellate authority have carefully examined the material on record as well as the previous conduct of the petitioner while passing the impugned order against her.

Resultantly, no case is made out for judicial review under Article 226 Constitution of India.

Dismissed.

(MANOJ BAJAJ)
JUDGE

30.01.2023

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No