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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23337-2021

Date of decision : 25.04.2023

Gaurav Kumar

...Petitioner

Vs.

Central Bank Of India
and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sumeet Jain, Advocate for the petitioner.

Mr. Siddharth Sanwaria, Advocate and
Mr. Gaurav Goel, Advocate for the respondents.

MANOJ BAJAJ, J.

By means of this writ petition filed under Article 226 Constitution of India petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the charge sheet dated 18.09.2020 (Annexure P-14), inquiry report dated 19.02.2021 (Annexure P-15), orders dated 17.03.2021 (Annexure P-17) and order dated 28.06.2021 (Annexure P-19), whereby firstly he was compulsorily retired from the service and subsequently his appeal against the order dated 17.03.2021 was also dismissed. Further, prayer is for issuance of a writ of mandamus directing the respondent-Bank to reinstate the petitioner alongwith continuity of service and all monetary benefits.

Learned counsel submits that the petitioner had joined the respondent-Central Bank of India in the year 2013, who performed his duties sincerely, but he has been compulsorily retired from service illegally through

impugned punishment order dated on 17.03.2021 (Annexure P-17) on the ground of absence from duty, and this decision has been upheld by the appellate authority also vide order dated 28.06.2021 (Annexure P-19). Learned counsel has argued that the petitioner suffered chronic back ache and it restricted his physical movement, therefore, initially he applied for leave for five days, which was approved and thereafter, on the recommendation of the Branch Manager, he went to doctor, in his home town at Gurgaon and was advised 15 days bed rest with physiotherapy. According to the learned counsel, petitioner informed the Branch Manager on 30.11.2019, who confirmed his leave till 02.12.2019, as the petitioner requested the Bank that on resumption of duties, he would submit the certificate by Chief Medical Officer. Learned counsel submits that on 09.12.2019, the petitioner was served with a memo, describing his absence from service as unauthorized, and further show cause notice was issued to him to explain that why disciplinary action be not taken against him for his misconduct. Learned counsel has drawn the attention of the Court to the petitioner's response dated 11.12.2019 (Annexure P-7), who explained that neither he absented from his duty, nor committed any misconduct and prayed for sanctioning his leave, but Bank insisted for certificate from Chief Medical Officer. Learned counsel has pointed out that the petitioner through his communication dated 18.07.2020 (Annexure P-12) submitted the prescription slips and intimated the Bank that he is being treated through naturopathy, who again assured to resume work after recovery from the illness, as his treatment got discontinued because of breakout of pandemic COVID-19. According to him, the response was found unsatisfactory resulting into the departmental action, whereupon a charge sheet dated 18.09.2020

(Annexure P-12) was served upon him and the disciplinary authority held him guilty for absence from duty and finally he was compulsorily retired from service. He submits that the order has been upheld by the appellate authority without examining the facts and circumstances of the case carefully. Learned counsel has argued that the petitioner could not effectively participate in the inquiry proceedings, therefore, he could not produce the medical record. Apart from it, he submits that the departmental punishment inflicted upon the petitioner is disproportionate to the misconduct, therefore, interference is warranted by this Court.

After hearing learned counsel and considering the material on record, this Court finds that concededly the petitioner remained absent from service w.e.f. 30.11.2019 and though the petitioner had set up a ground of illness to explain his absence from duty, but in support of this plea, no medical record relating to the illness was submitted before the Bank/department. The petitioner has placed on record various responses/communications sent by him to the department consistently requesting them to grant him leave, and this clearly shows that the petitioner was served with the notice for his unauthorized absence, however, he neither joined the duties nor submitted any medical record to justify his absence. A perusal of the inquiry report reveals that the disciplinary authority has carefully examined the material on record, particularly the defence of the petitioner and held him guilty for absence from duty. The inquiry proceedings have been conducted in a proper manner and at every relevant stage, an opportunity was provided to the petitioner, who failed to effectively avail it. The impugned orders have been passed by the punishing authority in accordance with law and the punishment inflicted upon the

petitioner is not at all disproportionate to his guilt. Even during the course of hearing, learned counsel is unable to point out the prejudice, if any, suffered by the petitioner.

Thus, in the given facts, this Court does not find it to be a fit case for judicial review and the writ petition is dismissed.

(MANOJ BAJAJ)
JUDGE

25.04.2023
vanita

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