

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13664 of 2012

Subash Chandra Das S/O Late Mukundlal Das Resident Of Village P.O-
Parshauni Farm At P.S- Choutarwa, District- West Champaran Bettiah

... .. Petitioner/s

Versus

1. The State Bank of India
2. The Chief General Manager State Bank of India Local Head Office Judge Court Road, Patna.
3. The Deputy General Manager, State Bank of India Muzaffarpur Circle, Muzaffarpur.
4. The Regional Manager (General Manager Region 5 And Appointing Authority) State Bank Of India Office at Muzaffarpur
5. The Branch Manager, State Bank of India Sahadatpur, P.O and P.S Sahadatpur District- West Champaran,

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prakash Chandra, Advocate
For the Respondent/s : Mr. Kaushlendra Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 07-05-2024

Heard Mr. Prakash Chandra, learned counsel
appearing on behalf of the petitioner and Mr. Kaushlendra
Kumar Sinha, learned counsel for the Bank.

2. Petitioner has *inter alia* prayed for following reliefs
in the paragraphs No.1 of the writ petition:-

(I) For quashing the memo no.RM-v/NMS/404 dated 18.3.2009 issued by the Regional Manager administrative office Muzaffarpur region 5, State Bank of India (Respondent no.5) whereby and whereunder the respondent no.5 has directed to the petitioner to voluntarily retirement from his service of the Bank w.e.f. 18.3.2009.

(ii) For quashing the Ref. No. RBO/HR/SKS/G/387 dated 13.10.11 and its encloser final order dated 20.9.2011 order passed by the General Manager Network 1 Patna respondent no.3, by which,



the respondent no.3 has confirmed the order dated 18.3.2009, and dismissed the appeal filed by the petitioner.

(iii) For direction to the respondent authorities to accept the joining of petitioner with all the consequential benefits on the part of the senior Assistant at Sahadatpur Branch P.O. & P.S. Loriya at Distt. West Champaran (Bettiah).

(iv) For any other appropriate writ/s, order/s, direction/s as this Hon'ble Court thinks fit and proper in the facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioner has informed that the petitioner has alternative remedy of filing Memorandum before the Chief General Manager to consider his case as per the Bipartite agreement dated 31.03.1967 as the same has been amended from time to time on mutually agreed terms and conditions between the parties.

4. Learned counsel admits the fact that appellate order has been passed after giving opportunity of personal hearing to the petitioner in which it has been taken note that the petitioner had violated the instruction of his superior by not joining the transferee branch and remained absent for a total period of more than six months and the medical certificate also did not mention specific period of rest by any of the attending doctors of the petitioner. Representation of the petitioner dated 08.05.2010 and 29.08.2011 also did not contain any explanation to the extent that what were the circumstances for such a long period of



absence. Learned counsel submitted that one thing is admitted that the petitioner was not medically fit during the said period, however, the reasons may be any. Learned counsel submitted that the petitioner also could not place the relevant provision of agreement in regard to the Leave Rules, contained in Chapter 4, which has been brought on record by way of Annexure A to the counter affidavit filed on behalf of the respondent Bank. A reference has been made to “Sick Leave” and “Extraordinary Leave On Loss Of Pay”, wherein, it has been agreed that except in exceptional circumstances, no employee should be granted extraordinary leave on loss of pay in excess of 90 days on any one occasion and 360 days during the entire period of his service. The petitioner submits that the Bank is bounded by the Bipartite agreement and the petitioner may be given liberty to make an application before the Chief General Manager, who is authorized to condone the absence of a workman staff beyond 360 days on merits of each case and on justifiable ground. Learned counsel has further submitted that he has received instruction that petitioner will forgo any pay or benefit accruing out of the pay scale on account of his absence for the period, he has remained absent from duty.

5. *Per contra*, Mr. Kaushlendra Kumar Sinha, learned counsel



appearing on behalf of the Bank submitted that the application dated 08.05.2010 and 29.08.2011 submitted by the petitioner is self-explanatory, as the petitioner himself was not aware what disease he was suffering and doctor has not advised him to take complete rest for a long period of time due to some physical disability or serious ailment / disease. The agreement relates to *bonafide* absence and not as the one in the case of the petitioner, who has deliberately remained absent by violating the orders of his senior. He, however, admits that no disciplinary action was taken against the petitioner.

6. Having considered the rival submissions made on behalf of the parties, as well as, the fact that the petitioner has restricted his grievance to the effect that he may be given liberty to file a detailed representation before the Chief General Manager for condonation of absence in accordance with Sub-clause 4.6 of Leave Rules, which relates to extraordinary leave on loss of pay, the petitioner is given liberty to file his application/representation before the Chief General Manager. The Chief General Manager may consider the application/representation of the petitioner in accordance with the service condition Rules, as well as, the bipartite agreement, which is binding on both the parties.



7. With aforesaid observation, the writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.05.2024
Transmission Date	NA

