

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CWP-2393-2022 (O&M)
Date of Decision: 20.01.2024

Ritu

...Petitioner

Versus

State Bank of India and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Lajpat Sharma, Advocate and
Mr. Daman Batalvi, Advocate and
Ms. Monica Khatri, Advocate for the petitioner
Mr. Chandeeep Singh, Advocate for the respondents

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 06.01.2022 (AnnexureP-5) whereby respondent-bank has asked the petitioner to pay the emoluments of three months in lieu of notice period.
2. The petitioner joined the respondent-bank as Probationary Officer on 29.12.2017 and she was promoted to the post of Deputy Manager on 06.01.2020. The petitioner in 2018 applied for NOC to appear in Combined Graduate Level Examination, 2018. On the basis of NOC issued by respondent-bank, the petitioner participated in the said exam and she was selected as Assistant Audit Officer. The petitioner vide letter dated 02.11.2021 (Annexure P-2) gave notice of resignation. In the said letter, it was pointed out that her three months notice period may be counted from the date of notice.

The respondent-bank did not respond to the said communication. The petitioner submitted a letter dated 05.01.2022 (Annexure P-4) asking the respondent-bank to clarify status of her request letter. The respondent-bank vide impugned order dated 06.01.2022 (Annexure P-5) conceded request of the petitioner subject to payment of emoluments of three months in lieu of notice period.

3. Learned counsel for the petitioner submits that as per circular dated 18.04.2019 (Annexure P-3) of respondent-bank if an official is proceeding to join Government office, the competent authority may waive fully or partially the notice period. The petitioner has joined Central Government service, thus, she was entitled to waiver of notice period.

4. Learned counsel for the respondent-bank submits that the petitioner was absent without permission since March' 2021 and respondent-bank issued notice dated 06.07.2021 calling upon the petitioner to report for duty, otherwise, it shall be deemed that she has voluntarily vacated her post. The petitioner did not join the service and served notice dated 02.11.2021. The conduct of the petitioner was not appreciable, thus, respondent-bank did not waive the notice period.

5. I have heard the arguments of learned counsels for both sides and perused the record with their able assistance.

6. From the perusal of record, it comes out that as per circular dated 18.04.2019, bank may waive notice period if an employee is proceeding to join a Government service. The relevant extracts of the circular read as:-

“3. The guidelines in respect of waiver of notice period are as under:

- a) Normally, the notice period should not be waived for the reason that it takes about 2 to 3 months to identify a replacement and arrange for his posting. Clearances from the departments/controlling offices under whom the official had earlier worked has also to be taken in the area of disciplinary/vigilance cases, and examined. There may also be serious dues from the official owing to the Bank which have to be ascertained and arrangements made for their adjustment. All these take time. Hence the competent authorities should normally not waive the requirement of notice, whether it is a case of resignation or voluntary retirement.
- b) However, where the official is proceeding to join a Government service or Public Sector Company, the Competent Authority may waive fully or partially the notice period, after receiving clearance from vigilance angle in the usual manner and after recovery of all dues.”

[Emphasis Supplied]

7. The petitioner was absent from duty since March’ 2021. The petitioner was paid salary for the period from March’ 2021 to June’ 2021 though she did not work for the said period. The respondent-bank has already recovered salary of the said period. The respondent-bank was required to record reasons for rejecting claim of the petitioner qua waiver of notice period. The respondent-bank has not returned a finding and simply directed the petitioner to pay emoluments in lieu of three months notice period.

8. In the wake of above facts and findings, this Court is of the considered opinion that impugned order dated 06.01.2022 (Annexure P-5) to the extent of demand of emoluments in lieu of three months notice period is liable to be set aside and hereby set aside with liberty to the respondent bank to pass a fresh order after granting an opportunity of hearing to the petitioner.

9. Disposed of in above terms.

Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

20.01.2024
Mohit Kumar

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