IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105

CWP-11671-2018 (O&M)
DECIDED ON: 13.11.2025

MS. MANPREET SAINI

......PETITIONER

Versus

BANK OF BARODA

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.K.Gupta, Advocate
for the petitioners.

Mr. B.B. Bagga, Advocate and
Mr. Rajinder Paul, Advocate for the respondent

SANDEEP MOUDGIL, J

Relief Sought

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India seeking quashing of the order dated 23.03.2018 (Annexure P-10) received on 17.04.2018 whereby while accepting the resignation of the petitioner from the service of the Bank, the petitioner has been directed to deposit Bond Money of Rs. 20,00,000/- including GST @18% being totally arbitrary, illegal, unenforceable in law and beyond the terms and conditions of the appointment and the Bank of Baroda (Officers') Service Regulations, 1979 and further to issue directions to the respondent to treat the petitioner as relieved from the service of the Bank with effect from 01.05.2018 and further for payment of all terminal benefits for the service rendered by the petitioner from 30.08.2010 to 30.04.2018 with interest @12%

per annum from the date the same are payable till the date of its actual payment and for the grant other reliefs as prayed in the writ petition.

Brief facts

2. The petitioner was appointed in Junior Management Grade/Scale-I pursuant to an appointment letter dated 13.08.2010. She joined service on 30.08.2010, successfully completed probation, and was confirmed with effect from 30.08.2011. Her service conditions were governed by the Bank of Baroda (Officers') Service Regulations, 1979.

3. In April 2014, the petitioner was identified for overseas posting at the Bank's UK Operations and was required to sign a security bond of ₹20,00,000/-. Vide letter dated 24.07.2014 (Annexure P-4), the petitioner was posted to London for a fixed tenure of three years. She joined on 18.08.2014, completed the entire overseas tenure, and was repatriated to India by the Bank vide letter dated 08.01.2018 (Annexure P-5) without any reservation. Thereafter, she was posted at SME Loan Factory, Chandigarh.

4. The petitioner, whose husband is employed in the Netherlands, faced matrimonial difficulties due to living in different countries and tendered her resignation on 19.02.2018 (Annexure P-8), specifying 15.03.2018 as her last working day. No response was received within the notice period. Subsequently, the respondent accepted the resignation vide letter dated 23.03.2018 (Annexure P-10) but imposed a demand for ₹20,00,000/- along with GST @18%, without assigning reasons or citing any statutory provision.

5. Despite acceptance of resignation, the petitioner was not relieved. Consequently, she relinquished charge on 30.04.2018 and completed all requisite formalities for release of terminal dues. The petitioner challenges the demand of the bond amount and GST as arbitrary, illegal, unenforceable, and

beyond the terms of appointment, overseas posting orders, and the governing Service Regulations, particularly when she had completed both the initial bonded service and the entire overseas tenure.

Contentions

On behalf of the petitioner

8. Learned counsel for the petitioner submits that the impugned demand of ₹20,00,000/- along with GST @18% is arbitrary, illegal, and unenforceable, as the petitioner has completed both the initial bonded service and the entire three-year overseas tenure in the Bank's UK Operations. The overseas bond was merely a security to ensure completion of the tenure and stood exhausted once the petitioner was repatriated by the Bank without reservation.

9. It is contended that the alleged bond was never duly executed in accordance with law and, in any event, no condition in the repatriation order dated 08.01.2018, required the petitioner to continue in service after repatriation or to pay any bond amount upon resignation. The impugned demand thus travels beyond the terms governing the petitioner's service and overseas posting.

10. Learned counsel further submits that the petitioner's resignation was in accordance with the Bank of Baroda (Officers') Service Regulations, 1979, and could not have been withheld in the absence of any disciplinary proceedings.

11. It is therefore argued that the petitioner is deemed to have been relieved on 30.04.2018 and is entitled to release of all terminal dues, and that the impugned demand deserves to be quashed.

On behalf of respondent/Bank

12. Learned counsel for the respondent Bank submits that the impugned demand of ₹20,00,000/- along with applicable GST is legal, valid, and enforceable, as the petitioner was selected for overseas posting subject to execution of a bond-cum-affidavit dated 28.04.2014 (Annexure R-2), which was voluntarily signed and accepted by her. It is urged that the affidavit clearly stipulates that upon completion of overseas tenure, the petitioner was required to serve the Bank in India for a minimum period of three years, failing which she would be liable to pay the bond amount.

13. It is further argued that the terms and conditions contained in the affidavit are binding and govern the petitioner's overseas appointment. Clause 2 and Clause 5 of the affidavit specifically provide that in the event of resignation or failure to serve the Bank for the stipulated period of three years in India after repatriation, the petitioner would be liable to pay a sum of ₹20,00,000/-. The petitioner admittedly resigned shortly after repatriation and did not complete the mandatory post-overseas service in India, thereby attracting the bond conditions.

14. Also, Learned counsel referred to the policy for selection of officers for overseas posting/execution of bond dated 30.07.2010 (Annexure R-1), issued by the Bank of Baroda. By the said policy, it was circulated that the earlier stipulations and bond conditions were required to be reviewed in accordance with Government guidelines or as decided by the Standing Committee, enhancing the existing guidelines. Under the revised policy, trainee officers were required to execute a bond obligating them to serve the respondent/Bank for a minimum period of five years after their repatriation to

India, failing which they would be liable to pay an amount of Rs. 20,00,000/- to the Bank in lieu of the said service.

15. The said decision was endorsed by the Board of Directors in its meeting held on 25.05.2010. In terms thereof, the petitioner has already executed a bond dated 28.04.2014 (Annexure R-2), which was read over by the learned counsel for the respondent/Bank, wherein the petitioner has undertaken the said obligation under Clause 5 thereof.

16. Learned counsel submits that acceptance of the petitioner's resignation was expressly made conditional upon recovery of the bond amount, as conveyed in the communication dated 23.03.2018. The petitioner failed to comply with the said condition despite sufficient opportunity, and therefore cannot claim that the Bank delayed her relieving. The Bank's action, it is contended, is in strict conformity with the agreed terms and the governing Service Regulations.

17. It is also contended that under the Bank of Baroda (Officers') Service Regulations, 1979, resignation is subject to acceptance by the competent authority, and such acceptance can validly be conditional. The overseas posting bond is a prerequisite applicable to all officers selected for foreign assignment, and the petitioner, being fully aware of its implications, cannot now resile from her contractual obligations.

18. Learned counsel therefore submits that the petitioner is attempting to evade the clear and binding terms of the affidavit and bond, and that the demand raised vide communication dated 23.03.2018 is justified, lawful, and deserves to be upheld by this Court.

<u>Analysis</u>

19. The petitioner has sought to assail the action of the respondent/Bankdirecting the petitioner to deposit bond money of Rs. 20,00,000/- including GST @18% despite himself having voluntarily executed a bond dated 28.04.2014 (Annexure R-2), pursuant to the policy governing overseas posting of officers dated 30.07.2010 (Annexure R-1), which had been duly approved by the Board of Directors of the respondent/Bank in its meeting held on 25.05.2010.

<u>Issues for Determination</u>

20. This court is of the opinion that the question of law involved in the present civil writ may be adjudicated upon within the dimensions of three fold issues that arise for determination:

> i. Whether a writ petition under Article 226 is maintainable to avoid enforcement of a voluntarily executed service bond arising out of contractual obligations?
>
> ii. Whether the overseas posting bond dated 28.04.2014 is valid and enforceable, and whether the respondent–Bank was justified in invoking it upon the petitioner's resignation after repatriation?
>
> iii. Whether the petitioner is entitled to unconditional acceptance of resignation, relief from service, and release of terminal benefits despite the subsisting bond obligation?

Issue no. 1- Whether this Court should exercise writ jurisdiction under Article 226 to interfere with enforcement of a service bond voluntarily executed by the petitioner?

Scope of Judicial Review

21. It is well settled that Article 226 of the Constitution of India does not operate as a forum for adjudication of purely contractual disputes, unless the action complained of is vitiated by arbitrariness, mala fides, or violation of statutory provisions. In "***<u>State of Bihar v. Jain Plastics & Chemicals Ltd.,</u>***

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(2002) 1 SCC 216", the Supreme Court held that disputes arising purely from terms of contract ordinarily do not warrant interference under Article 226. It was held that,

> *"7. **In our view, it** is apparent that the order passed by the High Court is on the face of it illegal and erroneous. It is true that many matters could be decided after referring to the contentions raised in the affidavits and counter-affidavits, but that would hardly be ground for exercise of extraordinary jurisdiction under Article 226 of the Constitution in case of alleged breach of contract."*

This principle has been consistently reiterated, including in ***"ABL International Ltd. v. Export Credit Guarantee Corporation, (2004) 3 SCC 553"***, where the Court clarified that writ jurisdiction may be invoked only where State action is demonstrably arbitrary or unreasonable. It was held that,

> *"29. However, while entertaining an objection as to the maintainability of a writ petition under Article 226 of the Constitution of India, the court should bear in mind the fact that the power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provisions of the Constitution. The High Court having regard to the facts of the case has discretion to entertain or not to entertain a writ petition. The Court has imposed upon itself certain restrictions in the exercise of this power [See: Whirlpool Corporation v. Registrar of Trade Marks, Mumbai & Ors. [1998 (8) SCC 1]. And this plenary right of the High Court to issue a prerogative writ will not normally be exercised by the Court to the exclusion of other available remedies unless such action of the State or its instrumentality is arbitrary and unreasonable so as to violate the constitutional mandate of Article 14 or for other valid and legitimate reasons, for which the court thinks it necessary to exercise the said jurisdiction."*

22. In the present case, the petitioner does not challenge the existence of the bond, nor allege fraud, coercion, or lack of authority. Her grievance is essentially against the consequences flowing from a contractual stipulation voluntarily undertaken by her and such a dispute lies primarily in the domain of private law, wherein the scope of judicial review is limited.

23. Therefore, as far as the issue pertaining to the maintainability of this petition under the writ jurisdiction of the high court to avoid enforcement of a voluntarily executed service bond arising out of contractual obligations lies, this court needs to examine whether any arbitrary or unreasonable conduct on part of the respondent-Bank is made out.

Issue no. 2- Whether the overseas posting bond dated 28.04.2014 is valid and enforceable, and whether the respondent–Bank was justified in invoking it upon the petitioner's resignation after repatriation?

24. The overseas posting bond dated 28.04.2014 was executed by the petitioner pursuant to a policy governing foreign postings of officers in the respondent–Bank. The policy serves a legitimate institutional purpose, namely, ensuring continuity of service and return on investment made by the Bank in deploying officers to foreign assignments. The Clause 5 of the bond dated 28.04.2014 (Annexure R-2), which is material for adjudication of the present dispute, reads as under:

> *"If I fail for any reason including the termination of the service by resignation or otherwise, whether on completion of my overseas assignment as IBO at UK or during the course of such assignment as IBO or on completion of such successive overseas assignments as may in future be given to me by the Bank, or during the course thereof or having so taken up duties at any place in India fail to serve the Bank for a period of 3 years for any such reason or in the event of any breach of obligations assumed by me in terms of clause (2) & (3) above, I shall pay to the Bank a sum of Rs. 20,00,000/- (Rupees Twenty Lacs only)"*

This clause specifically obligates the officer to serve the Bank for a stipulated period after repatriation from the overseas assignment, failing which she is liable to pay a specified sum (₹20,00,000/-). The bond was executed voluntarily, after the petitioner had received full knowledge of its terms and implications.

25. Service bonds of this nature have consistently been upheld where they are reasonable, serve a legitimate employer interest, and are voluntarily executed. The enforceability of such bonds in service law is governed by principles of freedom of contract and legitimate expectation. A contract freely entered into by a competent adult, where consideration exists and there is no element of coercion, fraud, or misrepresentation, is binding on the parties under Section 10 of the Indian Contract Act, 1872.

26. Additionally, Section 74 of the Indian Contract Act, 1872 holds a central importance in such cases. In this connection, it is useful to refer the Section 74, which is as follows :

"74. Compensation for breach of contract where penalty stipulated for :- When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or, as the case may be, the penalty stipulated for".

It provides that where a contract specifies a sum to be paid in case of breach (a "pre-estimate of damages"), such sum is enforceable even if it may operate as a deterrent, provided it is not unconscionable or extravagant. Thus, Section 74 reinforces that a pre-agreed sum for breach is recoverable unless it amounts to a penalty.

27. In the present case, the ₹20,00,000/- stipulated in the bond functions as a pre-estimated compensation for the Bank's loss in the event of premature resignation after repatriation. It is not punitive rather, it represents a reasonable pre-assessment of potential losses in terms of training, placement, and continuity of service. The Supreme Court in "***Fateh Chand, v. Balkishan***

Dass, AIR 1963 Supreme Court 1405", clarified that *"Section 74 declares the law as to liability upon breach of contract where compensation is by agreement of the parties predetermined, or where there is a stipulation by way of penalty."*

28. Otherwise also, the petitioner cannot avail of the benefits of overseas posting while denying the contractual obligation linked to it. He cannot be allowed by law to approbate and reprobate at the same time.

Issue no. 3 Whether the petitioner is entitled to unconditional acceptance of resignation, relief from service, and release of terminal benefits despite the subsisting bond obligation?

29. Under settled service jurisprudence, resignation does not take effect as a matter of right and becomes operative only upon acceptance by the competent authority and thus, acceptance may lawfully be made subject to fulfilment of existing obligations as imposed by the competent authority.

30. In *Raj Kumar v. Union of India*, AIR 1969 SC 180, it was held that resignation is effective only when accepted, while observing

> *"But where a public servant has invited by his letter of resignation determination of his employment, his services normally stand terminated from the date on which the letter of resignation is accepted by the appropriate authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the public servant to withdraw his resignation after it is accepted by the appropriate authority. Till the resignation is accepted by the appropriate authority in consonance with the rules governing the acceptance, the public servant concerned has locus paenitentiae but not thereafter."*

31. The petitioner's entitlement to terminal benefits is also subject to any pending lawful recoveries on part of the petitioner. In the present case, the bond obligation subsisted on the date of resignation. The petitioner cannot

claim unconditional relief from service or release of terminal benefits without first discharging or securing the contractual liability imposed on the petitioner.

Conclusion

32. The petitioner has failed to establish any constitutional or statutory infirmity in the action of the respondent–Bank. The writ petition, being an attempt to avoid a voluntarily assumed contractual obligation, is devoid of merit.

33. Accordingly, the present petition is hereby dismissed.

34. Pending applications, if any, stand disposed of.

(SANDEEP MOUDGIL)
JUDGE

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1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No