

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

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CWP-470-2003 (O&M)

Date of Decision : April 28, 2026

**THE REGIONAL MANAGER, CENTRAL BANK OF INDIA,
ROHTAK**

-PETITIONER

V/S

**PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI
AND ANR.**

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Naren Pratap Singh, Advocate
for the petitioner.

Mr. Arjun Pratap Atma Ram, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)

1. The instant writ petition assails the award dated 10.07.2002, whereby the Industrial Tribunal, New Delhi, answered the reference in favour of the respondent No.2/employee, holding the order dated 24/26.11.1993, wherethrough the petitioner/bank had declared the employee as deemed to have voluntarily retired from service, to be illegal, and consequently directed his reinstatement with continuity of service and all consequential benefits, including full back wages.

2. The challenge raised by learned counsel for the petitioner/bank is premised primarily upon Clause 17(a) of the Bipartite Settlement. It is submitted that where an employee remains absent from duty for 90 or more consecutive days without submitting any application for leave or for extension thereof, the said clause vests in the bank the authority to issue a

notice of 30 days calling upon such employee to report for duty, and upon his failure to comply, to treat him as having voluntarily retired from service. It is contended that the requisite statutory notice under Clause 17(a) was served upon the respondent No.2, and only upon his failure to resume duty within the prescribed period, he was treated as having voluntarily retired.

3. Learned counsel further contends that the Industrial Tribunal erred in interfering with the well-reasoned decision of the bank. The finding that the employee was not served at his given address is assailed as erroneous. It is submitted that the notices were dispatched to the address furnished by the employee himself, and that the bank also undertook service through publication in two daily newspapers. However, these material aspects were not properly appreciated by the Industrial Tribunal, and undue weight was given to the employee's plea of non-subscription to the newspapers. It is urged that the bank cannot be expected to tailor service based on the employee's personal newspaper subscriptions.

4. It is further submitted that the employee was a habitual absentee, having availed 1,363 days of leave without pay, and had remained continuously absent for over 90 days, thereby justifying the action taken by the bank under Clause 17(a). It is, therefore, contended that the past conduct of the employee, coupled with the satisfaction recorded in the statutory notices that he was engaged in business and had no intention to resume duties, justified the bank's decision to declare him to be deemed to have voluntarily retired from service by invoking Clause 17(a). Accordingly, interference by the Industrial Tribunal was unwarranted.

5. *Per contra*, learned counsel for the respondent No.2/employee,

relying on Clause 17(a), submits that the said provision mandates the bank to record a satisfaction that the employee has no intention of resuming duty. It is submitted that, in the present case, the employee had, in fact, reported to the bank on 10.12.1993, expressed his willingness to resume duties, and placed on record his medical documents demonstrating that his prolonged absence was attributable solely to his health condition. It is further submitted that the statutory notices were never actually served upon the employee, and that even the order dated 24/26.11.1993 was communicated to him only upon his reporting on 10.12.1993. It is, therefore, urged that the reference has rightly been answered in favour of the employee.

6. This Court has heard learned counsel for the parties and made a studied survey of the record.

7. A perusal of the impugned award reveals that it has been anchored on the hereinafter summarized grounds: -

(i) The statutory notices issued to the employee were returned unserved;

(ii) The employee had submitted a leave application (Ex. W1), reported to the branch on 10.12.1993 to resume duty, and also produced his medical certificate (Ex. W2);

(iii) Neither the 30-day statutory notice nor the order dated 24/26.11.1993 disclosed any material or evidence to sustain the conclusion that the employee had taken up alternative employment or had no intention of rejoining service, as mandated by Clause 17(a); and

(iv) One of the bank's witnesses, namely Mr. C.L.Sharma, Chief Manager, who appeared as MW-1, admitted that he filed the affidavit only on the basis of leave records and no other record was seen by him, meaning thereby that he had no knowledge as to what was the material or evidence before the authority concerned for arriving at the conclusion that the

employee had no intention to join duty or he had taken up employment.

8. It is also imperative to make a survey of Clause 17(a) of the Bipartite Settlement, as the case in hand hinges upon the same. Clause 17(a) reads thus: -

“Clause 17(a): - When an employee absents himself from work for a period of 90 or more consecutive days, without submitting any application for leave or for its extension or without any leave to his credit or beyond the period of leave sanctioned originally/subsequently or when there is a satisfactory evidence that he has taken up employment in India or when the management is reasonably satisfied that he has no intention of joining duties, the management may at anytime thereafter give a notice to the employee at his last known address calling upon him to report for duty within 30 days of the date of the notice, stating inter-alia the grounds for coming to the conclusion that the employee has no intention of joining duties and furnishing necessary evidence, where available. Unless the employee reports for duty within 30 days of the notice or gives an explanation for his absence within the said period of 30 days satisfying the management that he has not taken up another employment or avocation and that he has no intention of not joining duties, the employee will be deemed to have voluntarily retired from the Bank service on the expiry of the said notice. In the event of the employee submitting a satisfactory reply, he shall be permitted to report for duty thereafter within 30 days from the date of expiry of the aforesaid notice without prejudice to the Bank’s right to take any action under the law or rules of service.”

9. A plain reading of Clause 17(a) makes it clear that where an employee remains absent for 90 or more consecutive days without any application for leave or its extension, without any leave to his credit or beyond the period of leave sanctioned originally/subsequently, or where there is satisfactory evidence that he has taken up employment in India, or

where the management is reasonably satisfied that he has no intention of joining duties (emphasis supplied), the management may at any time thereafter give a notice to such employee at his last known address calling upon him to report for duty within 30 days of the date of said notice, **stating *inter alia* the grounds for coming to the conclusion that the employee has no intention of joining duties and furnishing necessary evidence, where available (emphasis supplied).** Failure of the employee to report or explain within the stipulated period results in deemed voluntary retirement upon expiry of the notice period.

10. This Court has, in light of the mandate enclosed in Clause 17(a), examined the statutory notices issued by the bank to the employee, which are appended with the writ petition as Annexure P-2 to P-4A. None of the statutory notices record any satisfaction, nor do they disclose the evidentiary basis for concluding that the employee had no intention to resume duty, rather they merely refer to his absence. Consequently, the said notices fail to comply with the mandatory requirements of Clause 17(a), and the Industrial Tribunal was justified in setting aside the order of deemed voluntary retirement.

11. It is also pertinent to note that the bank sought to rely upon the employee's past conduct as a habitual absentee. This Court is of the considered view that such past conduct does not fall within the compass of Clause 17(a). If the bank desired to take action on account of habitual absenteeism, the appropriate and legally prescribed recourse was to initiate regular disciplinary proceedings after conducting a departmental inquiry in accordance with the principles of natural justice. The bank's resort to the

summary mechanism of Clause 17(a), without compliance with its mandatory requirements, cannot be countenanced in law. The Industrial Tribunal has rightly appreciated the totality of the evidence and the applicable legal framework, and this Court finds no perversity or illegality warranting interference with the impugned award.

12. In summa, the **instant writ petition is dismissed** and the impugned award rendered by the Industrial Tribunal is affirmed and upheld.

13. Pending applications stand disposed of accordingly.

April 28, 2026
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(KULDEEP TIWARI)
JUDGE

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