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

LPA-539-2020 (O&M)

Date of Decision: 08.04.2025

CHAIRMAN, STATE BANK OF INDIA AND OTHERS

. . . . Appellants

Vs.

PARVEEN KUMAR VERMA

. . . . Respondent

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Akshay Jain, Advocate
for the appellants.

Mr. Gauravjit Singh Patwalia, Advocate
for the respondent.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Although this Court earlier insisted on the compliance of the order passed by the learned Single Judge, and as there was no interim order passed and in compliance thereto, the Bank has allowed the respondent to join and a compliance report had been placed before us. We have heard the learned counsel for the parties on merits of the case.
2. The respondent/writ petitioner had assailed the order dated 04.09.2013 passed by the Bank before the Single Judge, whereby his continuous absence from service was treated as voluntary cessation of service which in other terms means abandonment of service. The respondent was therefore, deemed to have voluntarily retired from service as on the date



the period of 30 days expired from the notice dated 11.05.2013 i.e. from 12.06.2013.

3. The writ petitioner assailed the orders on the premise that the action taken by the Bank was not in accordance with the provisions of Voluntary Cessation of Employment as per its HR Handbook Volume-II (para 2.7). The contention of the writ petitioner before the learned Single Judge was that the Bank had issued first memo to him on 05.02.2013 calling upon him to report on duty within three days, while the provisions under the aforesaid para 2.7 required three notices to be issued to the concerned employee giving him 30 days' time.
4. The learned Single Judge has accepted the contentions of the petitioner and has held that the provisions of para 2.7 of the HR Handbook Volume-II were to be applied *stricto sensu*. Relying on the law laid down in *NAZIR AHMAD V/s. KING EMPEROR*{AIR 1936 PC 253} which followed judgment in *TAYLOR V/s. TAYLOR*{(1875) LR 1 Ch D426 @p. 431}, and subsequently followed by the Supreme Court in *RAO SHIV BAHADUR SING V/s. STATE OF VINDHYA PRADESH*{AIR 1954 SC 322} that where a rule provides for a thing to be done in a particular manner, then it has to be done in that manner alone and no other manner, the Single Judge proceeded to set aside the action of the Bank imposing voluntary retirement upon the petitioner.
5. Against the said judgment dated 16.03.2020 passed by the Single Judge, the Bank is in appeal before us.
6. Learned counsel appearing for the Bank has pointed out that the respondent/writ petitioner has remained unauthorizedly absent from duty since 10.07.2012, and had reported thereafter for the first time only on



14.05.2014 as per his own averments. In the intervening period, the Bank had issued notices to him to join on 05.02.2013, and then again on 11.05.2013. Upon receiving the notice dated 11.05.2013, the respondent/writ petitioner replied on 08.06.2013 informing that he was unwell. The Bank immediately responded and asked him to submit his medical documents regarding his ailment and to seek leave through proper channel vide their letter dated 10.06.2013. However, thereafter, the writ petitioner did not respond and again a notice was sent to him as a final notice on 04.09.2013 informing that as he had failed to report on duty, he would be deemed to have voluntarily retired from service with effect from 12.06.2013.

7. It is submitted that in spite of the said order having been conveyed to the petitioner, he did not respond to the same timely, and he submitted for the first time a letter dated 17.05.2014 requesting to allow him to join, stating that he had earlier submitted his joining on 14.05.2014 which was not accepted. The Bank examined his request and rejected the same on 04.06.2014 in terms of the provisions of the Rules.
8. Learned counsel for the appellants has taken us to the provisions of Voluntary Cessation of Employment as provided in para 2.7 of HR Handbook Volume-II, which are as under:

'Voluntary Cessation of Employment

When an employee absents himself from work for a period of 90 or more consecutive days without prior sanction from the competent authority or beyond the period of leave sanctioned originally including any extension thereof or when there is satisfactory evidence that he has taken up employment in India or outside, the management at any time thereafter may give a notice to the employee at



his last known address as recorded with the bank calling upon him to report for the work within 30 days of the date of the notice.

Unless the employee reports for the work within 30 days of the notice or gives an explanation for his absence within the period of 30 days satisfying the management inter-alia that he has not taken up another employment or evocation, the employee shall be given a further notice to report for work within 30 days of the notice failing which the employee will be deemed to have voluntarily vacated his employment on the expiry of the said notice and advised accordingly by registered post.

In the event of the employee submitting a satisfactory reply, he shall be permitted to report for 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/conditions of service.

If the employee fails to report for work within this 30 days period, then he shall be given a final notice to report for work within 30 days of this notice failing which the employee will be deemed to have voluntarily vacated his employment on the expiry of the said notice and advised accordingly by registered post.

If an employee again absents himself for the second time within a period of 30 days without submitting any application and obtaining sanction thereof, after reporting for duty in response to the first notice given after 90 days of absence or within 30 days period granted to him for reporting to work on his submitting a satisfactory reply to the first notice, a further notice shall be given after 30 days of such absence giving him 30 days time to report.

If he fails to report for work or reports for work in response to the notice but absents himself a third time from work within a period of 30 days without prior sanction, his name shall be struck off from the rolls of the establishment



after 30 days of such absence under intimation to him by registered post deeming that he has voluntarily vacated his appointment.

Any notice under the clause shall be in language understood by the employee concerned. The notice shall be sent to him by registered post with acknowledgement due.

Where the notice under this clause is sent to the employee by registered post acknowledgement due at the last recorded address communicated in writing by the employee and acknowledged by the bank, the same shall be deemed as good and proper service.

To stand the legal scrutiny, it is essential that the employee concerned is given opportunity at each stage to report back for duties/explain his absence to the satisfaction of the bank.'

9. A careful reading of the said provisions reflects that a procedure has been laid down with regard to employees who remain absent from duty. It essentially states that if an employee has remained absent continuously for period of 90 or more consecutive days without prior sanction, the management has a discretion at any time thereafter to give a notice to the employee to report for work within 30 days of the date of notice. The words used are 'within 30 days' and the same therefore cannot be said to be 'minimum 30 days'.
10. In the present case, the writ petitioner absented from duty from 10.07.2012. The Bank has waited for almost seven months and has issued a notice on 05.02.2013 asking him to join within three days. However, he did not join even within 30 days, and therefore in the circumstances, he was again asked to join within 30 days vide notice dated 11.05.2013, to which he responded on 08.06.2013 but did not join. He was asked to



submit his medical certificates and proof of his being unwell, and also for seeking an application for taking medical leave, but thereafter he did not respond. The Bank has thus taken a decision almost 90 days thereafter by issuing an order on 04.09.2013 treating him as voluntarily retired from service with effect from 12.06.2013 i.e. after 30 days had expired from the issuance of notice dated 11.05.2013.

11. We find that the learned Single Judge has treated the said period as provided under Para 2.7 to be sacrosanct to the extent that three notices are required to be given providing 30 days' time each. In our respectful opinion, the learned Single Judge has erred in interpreting the provisions where the words used in Para 2.7, as observed by us hereinabove, are 'within 30 days' at each point of time. It, therefore, does not mean that there has to be three notices each giving 30 days' time to report for work. The procedure essentially is to give a fair opportunity to an employee to join back, who may not be employed elsewhere, and is in such circumstances where he is unable to join back. The presumption as to be drawn in terms of Para 2.7 is only when an employee fails to join in spite of several notices given to him. In such circumstances, he would be presumed to have abandoned his services or taken voluntary retirement.
12. The Bank has taken the aforesaid approach treating him as having been voluntarily retired. The same, in our view, is a lenient approach adopted by the Bank. However, we need not go into the said aspect. At the same time, we are unable to accept the view taken by the learned Single Judge which goes contrary to the language and import of the provisions of Para 2.7. No one should be allowed to take advantage of the provisions to his benefit and to the detriment of the service requirements. The respondent



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in the present case has chosen not to join back to his service after 10.07.2012, and his contention of joining on 17.05.2014 is an afterthought, as the last order passed was on 04.09.2013 which was almost 08 months prior to the request made by him to rejoin.

13. With regard to the medical ailment also, we are satisfied that there was no document showing that he was unwell, since the documents placed before us relating to medical ailment are of the year 2003 and no documents of the respondent being unwell in the year 2012 or 2013 have been placed before us or before the Single Judge. The entire case set up was, therefore, false and an attempt to mislead the Bank.

14. In view of above, the judgment dated 16.03.2020 passed by the learned Single Judge is, therefore, set aside. The joining of the respondent/writ petitioner in compliance of the order passed by this Court on 16.03.2020 would, therefore, also stand nullified.

15. Appeal stands accordingly allowed.

16. No costs.

17. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

08.04.2025

Mohit goyal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No