
(2016) 01 JH CK 0167
In the Jharkhand High Court
Case No : W.P.(S) No. 4141 of 2006

Naresh Prasad

APPELLANT

Vs

Jharkhand Gramin Bank

RESPONDENT

Date of Decision : 13-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 JLJR 186

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Anil Kr. Sinha, Advocate, for the Petitioner; M/s Rajesh Kr., Manindra Kr. Singh and Amit Kumar, Advocates, for the Respondent - Bank

Final Decision : Dismissed

Judgement

Mr. Aparesh Kumar Singh, J.— Heard counsel for the parties.

2. In substance, petitioner herein is aggrieved by denial of salary for the period 15.10.2003 to 09.05.2005 for alleged unauthorized absence from duty which was communicated to him through the impugned order dated 07.06.2006 (Annexure-23) issued by the Branch Manager, Brambe Branch, Ranchi after rejection of the petitioner's representation dated 13.07.2005 by the General Manager of the respondent Bank by order dated 13.09.2005 (Annexure-20). The order passed by the Chairman is said to have been communicated through General Manager dated 17.05.2006 (Annexure-A).

3. Summary of the facts involved are as follows:

Petitioner, a Clerk in the respondent Bank at Ranchi Regional Gramin Bank, now Jharkhand Gramin Bank, was transferred from Kakaria Branch to Jairagi Branch vide order dated 11.06.2003 and was relieved on 10.07.2003. He did not join at Jairagi Branch and made a request for transfer at a place at Ranchi. In WPS No. 5081/2003 preferred by him, learned Single Judge of this Court did not enter into determination of the merits of the dispute. However, by judgment dated

15.10.2003 (Annexure-1), Chairman of the respondent Bank was directed to pass appropriate order on his representation after inquiring into the matter whether he is actually suffering from ailment of Jaundice or Kidney problem, as stated by him. Petitioner was examined by the approved Medical Officer of the Bank and his transfer order was modified by posting him at Simdega Branch vide Head Office Order dated 20.01.2004. Petitioner again did not report for his duties.

4. Petitioner's contempt petition was dropped as respondents had already disposed of his representation, vide order dated 02.07.2005 passed in Contempt Case (C) No. 79/2004 (Annexure-18). On petitioner's representation, he stood transferred to Brambe Branch in the district of Ranchi where he ultimately joined on 10.05.2005. For this period of absence without leave, his representation for salary was rejected after he was given liberty to approach the Chairman of the respondent Bank in WPS No. 6452/2005 preferred for the said grievance (Annexure-21). The order of the Chairman of the respondent Bank, brought on record vide Annexure-A to the supplementary counter affidavit of the respondents, records sequence of facts and concludes by rejecting the representation of the petitioner for salary for the period in question on account of his absence being unauthorized and on the principle of "no work no pay".

5. From Annexure-B to the same supplementary counter affidavit, it is apparent that the Medical Officer of the Bank of India, Ranchi who examined the petitioner on 18.08.2003, found that he was earlier suffering from infective Hepatitis and his Serum Bilirubin had not come to the normal level. He in fact advised him only 15 days rest for being fully cured. After this examination, though petitioner claims to have continued under treatment as per medical prescription enclosed as Annexure-4 to the writ petition dated 05.11.2003, but there are no other documents to substantiate his continued absence for such a length of time. These documents and the representation of the petitioner have been duly considered with proper application of mind, as would appear from the reasoned order passed by the Chairman of the Bank and communicated through impugned letters dated 13.09.2005 (Annexure-20) and 07.06.2006 (Annexure-23) to the petitioner. The order impugned cannot be said to suffer from non-application of mind or failure to consider all relevant material facts.

6. Petitioner admittedly was not sanctioned any medical leave for the period of absence either before proceeding on leave or even after having remained absent during all these periods. In absence of actual work having been discharged by him, the stand of the respondent not to pay salary on the principle of "no work no pay", cannot be said to be suffering from legal infirmity warranting interference. As has been canvassed by the counsel for the petitioner also, this period has not been treated as break in service, though he was absent from duty. Therefore, this Court is not inclined to interfere in the impugned order. The writ petition is accordingly dismissed.