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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 10th August, 2026.

\# **CNR No. DLHC010102632019**

\+ W.P.(C) 1372/2019

SH. MANOJ KUMAR .....Petitioner

Through: Dr. N. Pradeep Sharma, Advocate.

versus

PUNJAB NATIONAL BANK .....Respondent

Through: Mr. Rajat Arora, Mr. Niraj Kumar and Mr. Sourabh Mahla, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

Factual background

1. This petition arises from disciplinary proceedings initiated by Punjab National Bank against Manoj Kumar, a Chief Manager (Senior Management Grade Scale IV), which culminated in his removal from service on 29th August, 2016. The dispute centres on his absence after a sanctioned spell of earned leave and the manner in which the Bank treated that absence in the disciplinary process. Manoj Kumar has since died and is represented in these proceedings by his legal representatives.

2. Manoj Kumar had joined the Bank on 18th March, 1991 and had completed about twenty-five years of service when the controversy arose. No earlier disciplinary penalty or adverse service incident has been brought

to the notice of this Court.

3. He had proceeded on sanctioned earned leave from 29th December, 2014 to 4th January, 2015 for domestic reasons. The Bank required him to resume duty on 5th January, 2015. He did not do so. By communication dated 7th January, 2015, the Bank informed him that his continued absence was being treated as unauthorised.

4. Manoj Kumar repeatedly sought extension of leave on the ground of illness. Initially, the medical material consisted substantially of certificates issued by a private medical practitioner, some of which were submitted considerably after the periods for which rest had been prescribed. The Bank was entitled to harbour reservations about this material. It repeatedly called upon him to report for duty and later required a certificate from a recognised Government hospital.

5. At the same time, the record does not suggest a case of complete abandonment of service. Manoj Kumar had not simply disappeared from employment. He corresponded with the Bank throughout the period of absence. He was admitted to Pushpawati Singhania Research Institute in February 2015 for treatment of *achalasia cardia* and, in 2016, produced material from VMMC and Safdarjung Hospital, New Delhi. The Bank disputed the sufficiency of the medical material to justify an absence of such length. It did not, however, establish that no illness existed at all.

6. A charge sheet dated 31st December, 2015 was issued alleging misconduct under Regulation 13(i), read with Regulations 3(1), 3(2) and 24 of the PNB Officer Employees' (Conduct) Regulations, 1977. Manoj Kumar submitted an elaborate defence on 28th January, 2016. Apart from objecting to certain discrepancies concerning dates and service of the charge sheet, he

catalogued the communications which, according to him, had been addressed to the Bank from January 2015 onwards explaining his medical condition and seeking extension of leave.

7. An Inquiry Officer was appointed on 9th February, 2016. Manoj Kumar did not attend the preliminary hearing or the subsequent hearings held on 29th March, 20th April and 10th May, 2016. He sought adjournments on medical grounds. Several opportunities were afforded to him before the Inquiry Officer eventually proceeded *ex parte*. The inquiry report dated 28th June, 2016 held that he had remained absent from 5th January, 2015 without permission and had failed to report for duty despite the communications issued by the Bank.

Procedural issues

8. The Court finds no reason to invalidate the inquiry merely because it ultimately proceeded *ex parte*. Regulation 6(19) expressly permits that course where an officer fails to appear or otherwise fails to comply with the disciplinary procedure. The Inquiry Officer had already adjourned the proceedings more than once. An employer cannot be required to keep a disciplinary proceeding indefinitely in abeyance merely because successive adjournments are sought on medical grounds.

9. The objection concerning service of the formal charge sheet also does not carry the matter much further. The Bank's record in this regard is not entirely consistent. The Circle Office communication dated 31st December, 2015 referred to a separate original communication addressed to Manoj Kumar and required the branch to ensure its service. Manoj Kumar disputed receipt of that original communication. At the same time, it is beyond dispute that he received the Articles of Charge and the statement of

imputations, understood the accusation, and answered it in considerable detail on 28th January, 2016. No prejudice in meeting the charge is therefore demonstrated on this account.

10. The real infirmity lies in what happened after the inquiry report was submitted. This stage is critical because the Disciplinary Authority was then required to consider not only the report, but also any representation made by Manoj Kumar against its findings. By communication dated 19th August, 2016, the Bank informed him that a copy of the inquiry report was enclosed and that he could submit his views within one week. It added that, if no response was received within that period, the matter would be decided *ex parte*.

11. The record shows, however, that this communication was not dispatched on 19th August, 2016. The postal material records dispatch only on 23rd August, 2016. Manoj Kumar's case is that it reached him on 27th August, 2016. He thereafter prepared a detailed response contesting the findings of the Inquiry Officer. That response was booked on 30th August, 2016 and delivered at Nariman Point on 2nd September, 2016.

12. The Disciplinary Authority acted before that response could be considered. On 29th August, 2016, it accepted the finding of guilt and imposed the major penalty of "removal from Bank's service which shall not be a disqualification for future employment" under Regulation 4(i). The order proceeded on the footing that the inquiry report had been supplied but Manoj Kumar had not submitted his views.

13. The Bank was free to prescribe a reasonable time for response. But having itself fixed one week, it could not abridge that period unilaterally. A disciplinary authority cannot invite a representation, indicate that it will wait

for a specified period, and then proceed to decide the matter before that period has run out.

14. The flaw is apparent whichever date is adopted. If 23rd August, 2016, the date of dispatch, is treated as the starting point, one week had not expired by 29th August, 2016. If the email said to have been sent on 24th August, 2016 is taken into account, the result is no different. If actual receipt on 27th August, 2016 is accepted, the removal order was passed only two days later. The conclusion, therefore, remains the same irrespective of which of these dates is taken as the starting point.

15. Nor is the defect cured by the Bank's earlier attempts to serve the report on 13th July and 26th July, 2016. The Bank itself thereafter chose to send the report again and expressly granted a fresh period of one week for response. Having extended that opportunity, it was required to act consistently with it.

16. The legal position is well settled. Where the Inquiry Officer and the Disciplinary Authority are distinct, the delinquent employee must receive the inquiry report before the Disciplinary Authority records its conclusion, so that the findings can be answered effectively. That is the principle stated in ***Managing Director, ECIL v. B. Karunakar***.[1] Equally, non-supply or defective supply of the report does not automatically annul the punishment; the Court must examine whether the breach caused prejudice. This qualification was reiterated in ***Haryana Financial Corporation v. Kailash Chandra Ahuja***.[2]

17. In the opinion of the Court, prejudice is made out on the facts of this

[1] (1993) 4 SCC 727
[2] (2008) 9 SCC 31

case. Manoj Kumar's representation was not a bare denial. It questioned the treatment of the medical documents, referred to certificates and prescriptions from Government hospitals, relied upon his earlier defence dated 28th January, 2016, and disputed the conclusion that he had failed to explain his absence. The Court is not concerned with whether those submissions would necessarily have prevailed. It is enough that they were relevant submissions, invited by the Bank itself, and capable of bearing on the disciplinary decision.

18. The prejudice is also visible from the language of the disciplinary order. It records that Manoj Kumar had neither sought prior permission nor "informed or explained the reasons" for his leave. The first part is supported by the record, since leave after 5th January, 2015 was never sanctioned. The second is not. The inquiry record itself contains several letters seeking extension and enclosing medical material. An explanation may be inadequate; it does not cease to be an explanation for that reason alone.

19. The appellate order did not cure this defect. The Appellate Authority noticed Manoj Kumar's specific contention that the communication dated 19th August, 2016 was dispatched on 23rd August, received on 27th August, allowed one week for response, and yet was followed by the removal order on 29th August. But the order then answered a different point. It referred to earlier attempts to send the report and concluded that adequate opportunity had been afforded. It did not address the narrow question which mattered: once a fresh one-week period was granted, how could the disciplinary decision be taken before that period expired?

20. That omission assumes significance under Regulation 17(4). The Appellate Authority was required to consider whether the findings were

justified and whether the penalty was excessive or inadequate. It possessed power to confirm, reduce, set aside or remit the penalty. The Court need not decide whether appellate consideration can, in an appropriate case, cure every defect at the disciplinary stage. It is enough to hold that this appellate order did not.

21. The reviewing order suffers from the same flaw. It records the employee's objection concerning dispatch and receipt of the inquiry report, as also his reliance on medical documents. Yet it rejects the plea partly on the ground that no representation had been made "till 29.08.2016". That reasoning cannot stand. Manoj Kumar was not required to submit his response by 29th August, 2016 when, on the Bank's own communication, the period granted to him had not expired.

Preliminary objections

22. Two preliminary objections of the Bank may now be considered. The first concerns territorial jurisdiction. It is true that the inquiry and the order of the Disciplinary Authority originated in Mumbai. The presence of the Bank's Head Office in Delhi, standing alone, would not suffice. Here, however, the appeal was decided by the Executive Director at the Bank's Head Office in New Delhi and the review was dealt with by the Managing Director and CEO at New Delhi. The appellate and reviewing orders are themselves under challenge, and the grounds of challenge extend to the manner in which those authorities dealt with Manoj Kumar's contentions. In ***Kusum Ingots & Alloys Ltd. v. Union of India***,[3] the Supreme Court recognised that where the original authority and the appellate or revisional authority are situated at different places, the appellate or revisional order

constitutes part of the cause of action and proceedings may lie where that order was made. The objection to territorial jurisdiction is therefore rejected.

23. The plea of delay is equally untenable. The review was decided only on 19th September, 2018. The writ petition followed in February 2019. Manoj Kumar had meanwhile pursued the remedies available under the disciplinary regulations. There is no laches which would justify shutting the doors of the Court.

Misconduct and penalty

24. This brings the Court to the extent to which the finding of misconduct itself should be disturbed. Judicial review of disciplinary proceedings is not an appeal on facts. The Court does not reweigh medical certificates or substitute its assessment of their evidentiary worth merely because another conclusion is possible.

25. Regulation 13 of the PNB Officer Employees' (Conduct) Regulations expressly prohibits an officer from absenting himself without prior permission, though it recognises that in unavoidable circumstances permission may be obtained later, subject to the satisfaction of the competent authority. Absence on account of sickness ordinarily requires a proper medical certificate. There is no material showing that leave from 5th January, 2015 onwards was ever sanctioned. The finding that the absence was unauthorised therefore rests on evidence and need not be displaced.

26. The reliance placed by Manoj Kumar upon ***Krushnakant B. Parmar v. Union of India***,[4] must also be kept within its proper compass. That decision explains that absence occasioned by compelling circumstances may

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[3] (2004) 6 SCC 254
[4] (2012) 3 SCC 178

not amount to wilful misconduct. It does not establish that every prolonged unauthorised absence becomes legally innocuous whenever illness is asserted. In ***Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu***,[5] the Supreme Court cautioned against treating *Krushnakant* as an absolute proposition divorced from the governing rules, the charge and the evidence in the particular case.

27. The facts here nevertheless differ materially from *Murali Babu*. There, the employee remained away for approximately one year and seven months without intimation, failed to answer repeated memoranda and produced the medical certificate only when he eventually returned. Manoj Kumar, by contrast, maintained a stream of correspondence with the Bank; there was actual hospitalisation during the period of absence and, later, medical material from Government hospitals. These circumstances do not convert unauthorised leave into sanctioned leave. They do, however, matter when the nature and consequence of the punishment are considered.

Relief

28. The inquiry report itself is therefore not liable to be quashed. The finding that Manoj Kumar remained away from duty without sanctioned leave is left undisturbed. What cannot be sustained is the penalty order, and the appellate and reviewing orders which affirmed it, because the final disciplinary decision was taken before the employee's invited response to the inquiry report could be considered.

29. Ordinarily, the matter would now be remitted to the Disciplinary Authority for fresh consideration from the stage at which the defect occurred. Events have overtaken that course. Manoj Kumar died on 1st May,

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[5] (2014) 4 SCC 108

2021 during the pendency of the petition. He was unmarried, and his two brothers and one sister have since been brought on record as his legal representatives. A remand intended to afford the deceased employee the very consideration which was denied to him in 2016 would now be little more than an exercise in form.

30. Relief must therefore be moulded with some care. The finding of misconduct against Manoj Kumar cannot be disturbed. At the same time, the consequence of a penalty imposed without affording him the opportunity promised by the Bank to respond to the inquiry report cannot be ignored, particularly where the penalty results in forfeiture of the pensionary benefits flowing from a long period of service.

31. Removal under Regulation 4(i) is one of the major penalties. Compulsory retirement is separately prescribed under Regulation 4(h). The distinction is substantial in the present case. Under Regulation 22(1) of the PNB (Employees') Pension Regulations, 1995, removal entails forfeiture of the employee's entire past service and consequently deprives that service of pensionary qualification. By the time the penalty of removal was imposed, Manoj Kumar had completed approximately twenty-five years of service with the Bank.

32. Prolonged unauthorised absence by a Scale IV officer is undoubtedly serious. The Bank was entitled to expect discipline, regular attendance and timely compliance with its directions. But the nature of the misconduct is also relevant. This is not a case of dishonesty, financial loss, misappropriation or want of integrity. No previous disciplinary penalty has been shown. The absence occurred against the background of illness, hospitalisation and repeated, though imperfect, attempts to seek extension of

leave. These circumstances were relevant to the determination of the appropriate penalty, particularly where removal carried the consequence of forfeiture of past service.

33. The limits of interference with punishment are narrow. In ***B.C. Chaturvedi v. Union of India***,[6] the Supreme Court held that the Court ordinarily does not substitute its own penalty for that chosen by the disciplinary authority. Interference is justified only where the punishment is so disproportionate as to shock the conscience; even then, remand is the normal course. Substitution is reserved for exceptional cases where reasons exist to shorten the litigation. The present case falls within that narrow exception because remand is no longer a practical remedy.

34. The decision of the Supreme Court in ***Umesh Kumar Pahwa v. Board of Directors, Uttarakhand Gramin Bank***[7] provides useful guidance. There too, the Supreme Court did not interfere with the findings of misconduct or treat the exercise of judicial review as an appellate reassessment of the evidence. At the same time, having regard to the appellant's 28 years of unblemished service, the absence of financial loss to the Bank, and the other circumstances noted in the case, it found the penalty of removal to be disproportionate to the misconduct proved. While recognising that the case involved a loss of confidence, the Court substituted the penalty of removal with compulsory retirement and directed that the appellant be granted the consequential benefits. The analogy is not exact, but the approach is apposite.

35. Substitution by compulsory retirement best preserves the balance in

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[6] (1995) 6 SCC 749

[7] (2022) 4 SCC 385

this case. It recognises the proved unauthorised absence and does not restore Manoj Kumar to a position as if no misconduct had occurred. It also avoids the forfeiture of pensionary benefits earned over more than two decades of service pursuant to a procedurally infirm penalty.

36. The writ petition is accordingly allowed in the following terms:

(a) The order dated 29th August, 2016 imposing the penalty of removal from service, the appellate order dated 1st February, 2017 and the reviewing order dated 19th September, 2018 are set aside.

(b) The inquiry report dated 28th June, 2016 and the finding that Manoj Kumar remained absent without sanctioned leave from 5th January, 2015 are not disturbed.

(c) In place of the penalty of removal under Regulation 4(i), the penalty shall stand substituted by compulsory retirement under Regulation 4(h), with effect from 29th August, 2016.

(d) The period from 5th January, 2015 to 29th August, 2016 shall carry no salary or allowances. For service and pension purposes, the Bank shall consider and pass appropriate orders, in accordance with the Pension Regulations and other applicable service rules, on the treatment of this period. The substituted penalty of compulsory retirement shall, however, not by itself operate to forfeit the qualifying service rendered before 5th January, 2015.

(e) Consequent upon the substituted penalty, the authority specified under Regulation 33 of the Pension Regulations shall determine the compulsory retirement pension payable to Manoj Kumar within eight weeks by a reasoned order.

(f) Pension and other retiral sums which accrued to Manoj Kumar from 29th

August, 2016 until his death on 1st May, 2021, together with such other terminal benefits as follow from the substituted penalty, shall thereafter be released to his estate or legal representatives in accordance with law within four weeks. Any entitlement arising after his death, including a claim to family pension, shall be governed by the Pension Regulations and is not independently adjudicated in these proceedings.

(g) The prayer for back wages is rejected.

(h) The monetary amounts payable under this order shall carry simple interest at 6% per annum if not released within the time stipulated above, calculated from the expiry of that period until payment.

37. The petition is disposed of in the above terms.

SANJEEV NARULA, J

AUGUST 10, 2026
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