

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 15310/2025

Rishi Kumar S/o Shri Siya Ram Roy, aged about 37 years,
Resident of Devika Skypers, 1206, Tower 10, Rajnagar
Extension, Ghaziabad, Uttar Pradesh.

----Petitioner

Versus

1. Rajasthan Marudhara Gramin Bank, through its Chairman having its Head Office Tulsi Tower, 9th B Road, Sardarpura, Jodhpur.
2. The Chief Manager, Inspection and Audit, Rajasthan Marudhara Gramin Bank, Tulsi Tower, 9th B Road, Sardarpura, Jodhpur.

----Respondents

For Petitioner(s)	:	Mr. Om Prakash Kumawat
For Respondent(s)	:	Mr. Anil Kumar Bhandari with Mr. Dinesh Choudhary

HON'BLE DR. JUSTICE NUPUR BHATI**Order****07/05/2026**

1. The instant writ petition has been filed under Article 226 of the Constitution of India with the following prayers:-

"1. By an Appropriate Writ, order or direction, order impugned dated 06.02.2025 (Annex. 9) may kindly be declared illegal and the same may kindly be quashed/set aside.

2. By an Appropriate Writ, order or direction, the respondent bank may kindly be directed to follow due process of law before passing any order against the petitioner.

3. By an Appropriate Writ, order or direction, the respondents may kindly be directed to allow the petitioner to rejoin his services in the respondent bank.

4. Any other appropriate relief which this Honble High Court deems just and proper may kindly be granted in favour of the petitioner."

2. Brief facts giving rise to the present petition are that the petitioner was appointed as an Officer in Middle Management

Grade Scale-III pursuant to an offer letter dated 10.01.2022 (Annex.1) and formally joined service on 02.03.2022 (Annex.1). Although appointed to a managerial cadre, he was posted as an Auditor, allegedly contrary to the bank's norms and outside his designated cadre. Owing to the special care requirements of his son, who suffers from Mild Autism Spectrum Disorder, the petitioner faced severe personal hardship and repeatedly sought reassignment, but no action was taken by the bank. Feeling compelled by the circumstances, he submitted multiple resignations between September 2023 and May 2024, all of which were either rejected or not acted upon, with the bank terming one resignation as "conditional." During this period, the petitioner remained absent from duty for certain periods due to his son's medical condition and was issued notices regarding unauthorized absence. Subsequently, he was also falsely implicated in a criminal case under Sections 318(4) and 319(2) of the BNS, which further prevented him from resuming duties immediately. The petitioner informed the bank through various emails about his arrest, inability to report, and his intention to rejoin service. However, instead of permitting him to resume duties or initiating any disciplinary proceedings, the bank terminated his services with immediate effect vide order dated 06.02.2025 (Annex.9). The petitioner immediately objected to the termination, contending that the bank had been kept informed throughout and that termination without any inquiry or proceedings was arbitrary and illegal. Hence, this petition.

3. Learned Counsel for the petitioner submits that the termination order dated 06.02.2025 is illegal, arbitrary, and

unjust, having been passed in complete disregard of the due process of law. It is further submitted that the petitioner remained absent from duty for a few days due to compelling personal circumstances, as his son suffers from mild Autism Spectrum Disorder and requires constant parental care and supervision. He further submits that the petitioner submitted his resignations on 14.09.2023, 23.09.2023, 21.10.2023, and 14.11.2023 (as collectively annexed in the writ petition as Annex.3) and that the respondent-bank rejected the resignation of the petitioner vide communication dated 16.11.2023 (Annex.4) on the ground that the same was conditional and, therefore, not actionable. He also submits that the petitioner subsequently tendered his resignations through e-mails dated 21.10.2023 and 20.05.2024 (Annex.8), which were likewise not accepted by the bank. He also submits that no preliminary inquiry or departmental proceedings were ever initiated against the petitioner and that, despite issuance of notices, no formal disciplinary procedure was followed prior to the termination of his services; thereby, constituting a clear violation of the principles of natural justice. He also submits that explanations/communications furnished by the petitioner regarding his absence and personal circumstances, were never duly considered, rendering the impugned order *ex parte*, arbitrary, and unsustainable in the eyes of law. He also submits that the posting of the petitioner as an Auditor, despite his appointment in Middle Management Scale-III and without completion of the requisite tenure as Branch Manager, was contrary to established banking norms and indicative of procedural irregularities. Learned counsel for the petitioner, thus, urges, that the impugned order

dated 06.02.2025 (Annex.9) deserves to be quashed and set aside.

4. *Per contra*, learned counsel representing the respondents vehemently opposed the submissions advanced by the petitioner's counsel and submits that the petitioner's service was terminated vide order dated 06.02.2025 with payment of one month's salary and allowances amounting to Rs.1,45,324/-, which was duly credited to the petitioner's bank account and voluntarily withdrawn by him without any protest. It was contended that by accepting and withdrawing the said amount, the petitioner has agreed in and waived his objections, if any, to the termination order. He also submits that Clause 49 of the Rajasthan Marudhara Gramin Bank (Officers & Employees) Service Regulations, 2010 (hereinafter referred to as 'Service Regulations, 2010') provides a statutory remedy of appeal against the impugned order; however, the petitioner, without availing such efficacious alternative remedy, has directly approached this Court. Learned Counsel for the respondents further submits that the petitioner was afforded adequate opportunities of hearing through notice dated 20.10.2023; wherein, his repeated unauthorized absence was duly noted and he was directed to submit an explanation within three days and to Complete all requisite formalities pertaining to resignation . He further submits that the respondent-Bank also issued another notice dated 11.09.2024 concerning his repeated absence from duty and in view of the repeated notices and the petitioner's repeated unauthorized absence for a considerable period, it became imperative for the respondents to terminate his services. Learned counsel for the respondents submits that the

termination order dated 06.02.2025 (Annex.9) is not stigmatic in nature, however the petitioner's past conduct is not stigmatic in nature though, thus requires no indulgence in this case.

5. In support of his contentions, learned counsel for the respondents has relied upon the judgment of the Hon'ble Supreme Court in the case of ***State of Punjab and Others v. Sukhwinder Singh*** reported in ***[2005 (5) SCC 569]***. Learned counsel for the respondents, thus, urges, that the termination order dated 06.02.2025 (Annex.9) has been rightly passed against the petitioner.

6. I have heard and considered the submissions advanced at Bar by learned counsel for the parties, as well as, perused the material available on record.

7. Upon perusal of the reply filed by the respondents, it transpires that the petitioner had been apprehended by the police on two separate occasions and remained incarcerated in connection with the allegations pertaining to public examination i.e. the petitioner was arrested at Jaipur on 25.07.2022 in a case registered at Shivdaspur Police Station, Jaipur South, for appearing as a dummy candidate in the Multi Tasking Staff ("MTS") Examination conducted by the Staff Selection Commission, consequent thereto, he remained under suspension from his banking services for the period from 25.07.2022 to 02.10.2022 and thereafter the petitioner was again apprehended by the Delhi Police on 11.08.2024 in another examination-related matter and remained in jail from 11.08.2024 to 19.10.2024 which apparently prevented the petitioner from discharging his duties and this fact has been admitted by the petitioner.

8. It is also evident from the perusal of the record that the petitioner was afforded appointment on probation on 10.01.2022 for a period of 2 years and he remained absent from duty intermittently for a substantial period of 513 days without any authorization. The chart showing details of his unauthorized absence from duty, as stated in the reply, is reproduced hereunder:-

<u>PERIOD</u>	<u>DAYS</u>
28.04.2023	1
04.07.2023 to 05.07.2023	2
10.07.2023	1
18.07.2023 to 28.07.2023	11
05.08.2023	1
31.08.2023 to 02.09.2023	3
08.09.2023 to 18.07.2024	315
12.08.2024 to 06.02.2025	179
TOTAL	513

The fact regarding petitioner remaining absent from the duties, stands uncontroverted by the petitioner. The material on record further discloses that the respondent-Bank issued various notices to the petitioner dated 07.10.2023, 13.10.2023, 20.10.2023, 25.10.2023, 16.08.2024, 28.08.2024, 02.09.2024 and 11.09.2024 calling upon the petitioner to explain his absence during the probationary period. Despite these opportunities, the petitioner did not furnish any satisfactory explanation to the competent authority and remained absent from duties, as mentioned in the aforesaid chart. Petitioner's contention that his absence stemmed from compelling personal circumstances, including his son's

medical condition, may evoke sympathy nonetheless demonstrates indiscipline on the part of the employee particularly when a probationers services are required to be evaluated by the employer for the purpose of confirmation in service.. The petitioner repeatedly tendered resignations on various dates, which the Bank either treated as conditional or declined to accept due to the petitioner's failure to complete the requisite formalities despite multiple opportunities. It is important to note that the petitioner has not placed on record application/applications to show that at the time when he tendered resignation application the said application was supported with applications seeking leave on account of which he remained absent from service or even thereafter on other occasions when he chose to remain willfully absent he preferred application before the respondents seeking leave. The petitioner's conduct, as reflected in the record, evinces his unwillingness and inability to serve in a disciplined manner, as the respondent-Bank, being a financial institution handling public funds, is entitled to expect regularity, discipline, and accountability from its officers.

9. The petitioner's contention regarding violation of natural justice principles is untenable. The record amply demonstrates that notices were issued concerning his prolonged unauthorized absence, and sufficient opportunity was provided for explanation. Moreover, the petitioner filed no rejoinder to rebut the respondents' specific assertions and factual averments in their reply about his unauthorized absence for 513 days during the period of probation. Until his resignation was formally accepted by the competent authority, the petitioner remained legally obliged to

perform his duties rather it is seen that the petitioner submitted the applications for resignation with a condition that his resignation may be accepted; however, the formalities could be completed by him later. The absence of a full-fledged departmental Inquiry does not *ipso facto* invalidate the impugned order, which is simpliciter and not predicated on any finding of misconduct.

10. A plain reading of the impugned order dated 06.02.2025 reveals that it casts no stigma on the petitioner nor records any finding of guilt. The order is simpliciter and was accompanied by one month's salary and allowances in accordance with the applicable Service Regulations.

11. In the case of ***Abhijit Gupta v. S.N. Bose National Centre for Basic Sciences & Ors.*** Reported in ***[(2006) 4 SCC 469]***, the Hon'ble Supreme Court was dealing with the case of probationary employee, whose probation period was not extended further with observation that his service was not rendered satisfactory even after several opportunities for improvement. The relevant extract from the above-said judgment reads as thus:

"17. The High Court has carefully considered all the circumstances placed before it and arrived at the conclusion that the respondent's work was under observation during the probationary period and that he was given repeated opportunities to improve his performance for which purpose his probation was extended from time to time. The fact that the authority did not find him fit for confirmation was also brought to his notice several times and yet he was given opportunities of improving by extending his probationary service. The High Court has correctly found that the letter dated 7.4.1998 was not punitive in nature and stated, albeit in prolix fashion, that the service of the appellant were unsatisfactory. The High Court points out, and we agree, that detailed reference to all other correspondence was not necessary, but it did not reflect any malice or bias.

Finally, as this Court pointed out in P.N. Verma's case (supra) "a termination order which explicitly states what is implicit in every order of termination of a probationer's appointment, does not ipso facto become stigmatic."

12. In the case of ***Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre for Basic Sciences : 1999 (3) SCC 60***, while dealing with the issue of termination during probation, the Hon'ble Supreme Court took into consideration the fact that the appellant having been appointed on probation for a period of one year, joined on 02.05.1995, as Office Superintendent in the respondent- organisation viz. S.N. Bose National Centre for Basic Sciences, vide order dated 11.01.1995, subject to satisfactory performance. The Hon'ble Apex Court deliberated upon the case in ***Allahabad Bank Officers' Association v. Allahabad Bank, : [1996 (4) SCC 504]***: wherein the relevant para is reproduced as:

"At the outset, we may state that... use of the word unsatisfactory work and conduct in the termination order will not amount to a stigma... The language used in the order of termination is that the appellants' 'work and conduct has not been found to be satisfactory.' These words... fall within the class of non-stigmatic orders of termination."

13. The aforesaid precedents unequivocally establish that terminating a probationer for unsuitability or unsatisfactory performance is neither punitive nor stigmatic. During probation, the employer may evaluate the employee's overall suitability, efficiency, conduct, and capability, and discontinue services upon finding performance inadequate, without a full departmental inquiry. Warning letters, demands for explanation, or fact-finding exercises do not render the order punitive unless based on misconduct allegations adjudicated through formal inquiry with a

guilt finding. The litmus test is whether the order imputes misconduct or moral turpitude beyond unsuitability. Phrases like "unsatisfactory work and conduct", "lack of initiative", "want of application", "lack of potential", or "found unsuitable" are non-stigmatic, reflecting only the employer's assessment of fitness. Thus, an order recording dissatisfaction with a probationer's performance, conduct, or suitability-sans misconduct findings from regular inquiry remains a valid simpliciter termination, impervious to interference on grounds of stigma or punishment.

14. The petitioner's grievance regarding his posting as Auditor, allegedly contrary to banking norms, lacks merit and has no bearing on the impugned termination order dated 06.02.2025 (Annex-9), which rests on recurrent unauthorized absence. Judicial review under Article 226 in service matters is circumscribed; this Court does not function as an appellate authority over administrative decisions unless vitiated by arbitrariness, *mala fides*, stigma, or statutory violation. None is established here.

15. In light of the foregoing discussion, taking into consideration that the petitioner was explained the conditions of probation, satisfactory conduct, and satisfactory performance of duties and that the petitioner was well within knowledge that during the probationary period, his continuance in service is conditional on satisfactory performance and conduct and had been given ample opportunities to explain any circumstances affecting attendance and performance and was advised to remedy the deficiency forthwith but the petitioner continued to remain willfully absent from service, the impugned order dated 06.02.2025 (Annex-9)

passed by the respondent-Bank, is justified and discloses no illegality or perversity warranting interference.

16. Accordingly, the instant writ petition along with stay application, being devoid of any merit, stands dismissed.

(DR. NUPUR BHATI),J

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