



WA No. 3387 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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<i>Reserved on</i>	11.08.2026
<i>Pronounced on</i>	14.08.2026

CORAM

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE KRISHNASWAMY GOVINDARAJAN

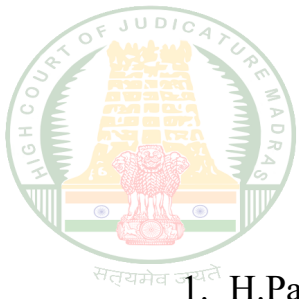
WA.No.3387 of 2023
and CMP No.27657 of 2023

1. State Bank of India
Rep by its Chairman,
State Bank Bhawan Madam Cama Road,
Mumbai - 400 021.
2. Assistant General Manager (PPG),
State Bank of India, Local Head Office,
16, College Road, Nungambakkam,
Chennai - 600 006.
3. Deputy General Manager(B&O)
State Bank of India,
Network-1, Chennai Zone-II,
86, Rajaji Salai, Chennai - 600 001.
4. Chief Manager/Regional Manager,
State Bank of India, 29, 30,
Annai Indira Gandhi Salai,
Kancheepuram - 631 502.

..Appellant(s)

Vs.

V.Indira Nawada (deceased)



WA No. 3387 of 2023

1. H.Parameswara Nawada
2. Sanjana Hosadu Nawada
3. Suhas Hosadu Nawada

..Respondent(s)

Prayer: Writ Appeal filed under clause 15 of the Letters Patent praying to set aside the order dated 16.08.2023 made in WP.No.13678 of 2016 and allow the writ appeal.

For Appellant(s): Mr.S.Ravindran (Senior Counsel)
for Mr.K.Chandrasekaran

For Respondent(s): No Appearance

JUDGMENT

Krishnaswamy Govindarajan, J.

This writ appeal has been filed against the order in WP.No.13678 of 2016, dated 16.08.2023. The original writ petitioner is no more and she is represented by her legal heirs, who are the respondents in this writ appeal.

2. The underlying writ petition was filed seeking the relief of Certiorarified Mandamus to call for the records of the 2nd and 4th respondents in respect of the impugned letter bearing No.Staff/Award dated 07.12.2011



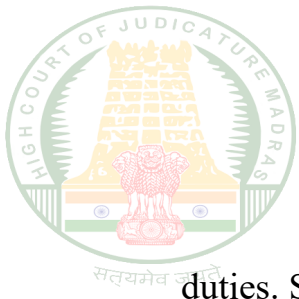
WA No. 3387 of 2023

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issued by the 4th respondent, accepting the petitioner's resignation and relieving her from service with retrospective effect by about 5 years and the impugned letter No.LHO/CHE/PPG/dated 29.09.2015 issued by the 2nd respondent, rejecting the petitioner's claim for pension benefit and quash the same and consequently, to direct the respondents/petitioners herein to grant pensionary benefits to the writ petitioner along with arrears of pension with interest within a time frame.

3.1 The case of the original writ petitioner (now represented by her legal heirs) is that she was appointed as Clerk-cum-Cashier on 11.07.1985 at the HAL, Bangalore branch of the appellants/State Bank of India. She subsequently served across various other branches until 2006.

3.2 While in service, she fell ill in September 2003. As her husband was stationed in Vienna, Austria, she initially stayed under the care of her parents in Mumbai to undergo medical treatment before her husband relocated her to his work place in Vienna. The petitioner pleaded that she regularly applied for leave during her absence from duty and kept the 4th respondent informed about her illness and physical inability to attend to her



WA No. 3387 of 2023

duties. She received her salary at Kancheepuram branch until 22.08.2006.

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3.3 Subsequently, the petitioner tendered her resignation on 06.01.2007 to the 4th respondent. This resignation was accepted by the bank on 07.12.2011, with retrospective effect from 07.11.2011. Aggrieved by the same, she preferred the writ petition in 2016.

4. A detailed counter-affidavit was filed on behalf of the appellants/bank. The bank contended that the petitioner was in a habit of remaining absent without obtaining leave from the competent controlling authority of the bank from 2003 onwards. A detailed tabulation of her absence was provided in paragraph 7 of the counter-affidavit and the same is extracted hereunder:

S.No.	From	To	No. of days absented
1.	01.09.2003	31.03.2004	178 days (212-34) = 178
2.	(i) 01.04.2004 (ii) 12.04.2004	30.06.2004 20.07.2004	101 days
Total No. of days			279 days



WA No. 3387 of 2023

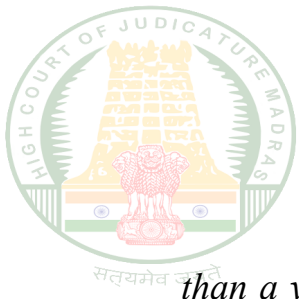
AT KANCHEEPURAM

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S.No.	FROM	TO	NO. OF DAYS ABSENTED
	2.8.2004	12.10.2005	437 days
	14.11.2005	17.11.2005	4 days
	7.12.2005	2.7.2006	208 days
	12.7.2006	23.7.2006	1 day
		24.7.2006	12 days
	11.8.2006	18.8.2006	1 day
	23.8.2006	06.8.2006	8 days
		06.11.2007	441 days
			1112 days
<u>Total days absented (279+1112)=</u>			<u>1391 days</u>

5. From the aforesaid tabular, it is seen that the petitioner absented herself from duty for a total of 1391 days. Consequently, her resignation was accepted, her terminal benefits were settled, and the bank prayed for the dismissal of the writ petition.

6. Perusal of the typed set of papers reveals that the bank issued notices to the petitioner regarding her unauthorised absence. The notice dated 16.06.2006 explicitly stated *“You have been absented for the Bank's service from January 2006 in addition to your earlier irregular absence for more*



WA No. 3387 of 2023

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than a year at irregular period in 2004/2005 (earlier branches). Though we could not send reminders and letters to your residential address as no such address is available, you are continuously absenting for the service, whereas we are receiving leave letters without 'from address'. On enquiry, we came to know that, you are staying at Vienna” It further stated that “If you are attending office immediately, we may like to resort to disciplinary action and also publish your photo in the leading newspaper to inform we are starting disciplinary action against you. This letter is sent to your known address on secret enquiry.”

7. A similar letter was also sent on 11.12.2006. On 06.01.2007, the original writ petitioner sent a reply from her residence in Vienna, Austria, tendering her resignation. In the said resignation letter, she failed to provide any explanation for her irregular absence or address the bank’s two prior communications directing her to rejoin duty. The bank issued another communication on 14.09.2007 to her Vienna address, calling upon her to report for duty within 3 days.

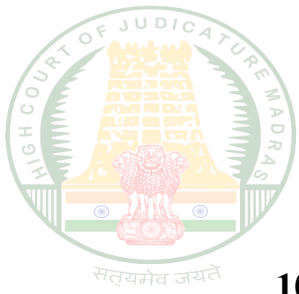


WA No. 3387 of 2023

WEB COPY

8. On 28.09.2007, the writ petitioner reiterated her resignation letter dated 06.01.2007. She informed the bank that she had forwarded a copy of her resignation to the Union, State Bank of India, Kancheepuram branch. She further stated that she urgently required her Provident Fund Contribution to cover her hospital expenses. This letter similarly lacked any explanation for her unusual/irregular absence.

9. On 02.11.2007, the petitioner submitted an application for voluntary retirement. On 28.12.2009, she sent another letter inquiring about the status of her resignation. In the same letter, she inquired if there was any possibility of rejoining the bank by transferring her job from Kancheepuram to South Mumbai. On 30.11.2011, the bank took a formal decision to accept her resignation with effect from 07.11.2007. This decision was communicated to the petitioner vide letter dated 07.12.2011. Following the acceptance of her resignation, the petitioner sent a final communication dated 19.12.2011 requesting a reconsideration of her case, stating that 'she was ready to work'.



WA No. 3387 of 2023

WEB COPY

10. When there is a checkered history on the part of the writ petitioner of non-attendance and irregular absence without informing the bank officials, as a final resort, the bank took steps to accept her resignation. After being granted multiple opportunities and with full knowledge of her deficiencies in discharging her duties, having absented herself for more than 1391 days and knowing that she would not be entitled to pensionary benefit, the petitioner approached this Court in 2016 to question the acceptance of her resignation. The learned Single Judge allowed the writ petition vide order dated 16.08.2023 and observed as follows:

..... *“51. Even in the instant case, if the respondents had taken a stand that the petitioner was unauthorisedly absent, they could have followed it up in manner known to law. They had taken a decision to condone the absence. Having taken a decision to condone the absence they should have extended the further benefit of such condonation to the petitioner herein. They cannot put a rider on such decision and state that they would condone the absence, which would of be no assistance to the petitioner, since the period condoned was not taken into consideration for pensionary service. That decision does not take the respondents anywhere.*



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WA No. 3387 of 2023

52. I hold that the denial of taking into consideration that particular days of service into pension has to be set aside by this Court. It is also seen that the respondents have not issued any notice prior to taking such decision. The three gentlemen who had signed the order, had acted to the detriment of the respondents themselves. Both the letters impugned in this writ petition are therefore set aside.....”

11. The learned Senior Counsel appearing for the appellants/bank placed reliance on Rule 21. (i) of the State Bank of India Employees’ Pension Fund Rules, which is extracted hereunder:

“21 (i) No period of leave granted without leave salary or of absence without leave shall count as pensionable service. A period of suspension shall count as pensionable service only to such extent as the authority which reinstates him declares it to be pensionable at the time of reinstatement or the authority which sanctions his retirement declares it to be so at the time of according the sanction.”

12. The aforementioned rule explicitly stipulates that an absence without leave shall not count as pensionable service unless the reinstating



WA No. 3387 of 2023

WEB COPY

authority declares it to be pensionable at the time of the employee's reinstatement.

13. There has been no representation on behalf of the respondents. Despite two opportunities being granted earlier, today, none appeared when the matter was called. Hence, this Court heard the arguments of the learned Senior Counsel for the appellants alone.

14. In the present case, the bank extended a long rope to the employee by issuing multiple communications requesting her to join duty. Despite this, she failed to offer a single valid request or explanation for her unauthorised absence and took leave without permission. The Bank ultimately took the only remaining resort and issued the acceptance of resignation effective from the period she remained absented.

15. In the case of *Life Insurance Corporation of India and others Vs. Om Prakash* reported in (2024 INSC 870), the Hon'ble Supreme Court of India held as under:



“11. Relief was granted to the respondent by the High Court on the ground that the termination order was passed without affording a reasonable opportunity or conducting an inquiry into the charge of absence from duty. But in granting such relief, the Court overlooked that it was a case of the respondent abandoning his services without informing his employer about his whereabouts. Subsequently, it came to light that he joined the FCI on 09.05.1997.

12. Such conduct of the respondent could not have been condoned by the employer and therefore, in our assessment, treating the respondent to have abandoned his service and taking appropriate action against him, in terms of the LIC Staff Regulation, cannot be faulted. It is also necessary for us to say that as the delinquent was guilty of suppression of the fact of his employment with the FCI, he was disentitled to equitable relief from the High Court in exercise of powers under Article 226 of the Constitution.”

16. In view of the dictum laid down by the Hon’ble Supreme Court, the unauthorised absence of an employee without informing their whereabouts can be treated as abandonment of service, empowering the employer to take appropriate disciplinary action. Seeking or granting the acceptance of



WA No. 3387 of 2023

resignation under such circumstances constitutes a contrary relief.

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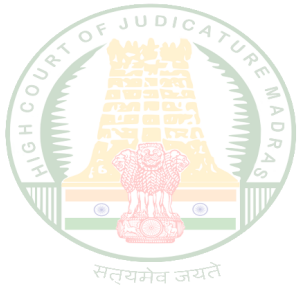
17. In our considered view, the order passed by the appellants/bank is fair, reasonable and warrants no interference, particularly given the conduct of the original writ petitioner.

18. Accordingly, we interfere with the decision of the learned Single Judge. The order of the learned Single Judge dated 16.08.2023 passed in WP.No.13678 of 2016 is hereby set aside and this writ appeal stands allowed. No order as to costs. Connected civil miscellaneous petition is closed.

(S.M.S.,J.) (K.G.R.,J.)
14-08-2026

Index: Yes
Speaking/Non-speaking order
Neutral Citation: Yes/No

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WA No. 3387 of 2023

S.M.SUBRAMANIAM, J.
AND
KRISHNASWAMY GOVINDARAJAN, J.

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Pre-delivery judgment made in WA.No.3387 of 2023

14-08-2026

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Page13 of 13