



2025:DHC:1142



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

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Decided on: 20.02.2025

+ W.P.(C) 2034/2025

PRIYANKA KUMARI

.....Petitioner

Through: Mr. Sumit Sharma, Ms. Uma Gaur,
Mr. Piyush Gaur, Advocates.

versus

INDIAN OVERSEAS BANK & ORS.

.....Respondents

Through: Mr. Chandra Prakash, Advocate
for IOB.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The petitioner, who was working as an Assistant Manager in the respondent- Indian Overseas Bank [“the Bank”], has filed this petition under Article 226 of the Constitution, challenging an order dated 15.04.2024¹, by which the Bank has terminated her services on account of prolonged unauthorised absence, and an appellate order dated 19.11.2024, by which the order of termination has been upheld.

2. The petitioner joined the Bank as an Assistant Manager on probation on 06.08.2012. She was posted in the Lucknow region from 12.08.2012 until 08.07.2016. She was then transferred to Delhi, at her request, where she worked in the Regional Office from 09.07.2016 to 18.07.2016, and at the Daryaganj Branch from 19.07.2016 to 04.08.2021.

¹ Annexure A-1 to the writ petition.



During her tenure in the Daryaganj Branch, she was on sabbatical leave from 04.08.2020 to 03.08.2021. Upon her return from leave, she was posted in the Mahanagar Doorsanchar Bhawan Branch, Delhi from 05.08.2021 and relieved from there on 21.04.2023.

3. The genesis of the controversy lies in an order dated 15.04.2023², by which the petitioner was transferred to the Vijayawada Region of the Bank. She was directed to report to the Regional Office in Vijayawada after she was relieved on 21.04.2023, but did not report to the said office.

4. Instead, she made a formal representation dated 17.04.2023³ to the Bank. The representation states that she has been posted in the Delhi region since 10.07.2016, during which she was on maternity leave and sabbatical leave. Her request for transfer within the Delhi-National Capital Region [“NCR”] in 2022 was rejected, and a similar request was made in 2023, but her transfer to Vijayawada was affected on account of overstay. She once again sought a transfer within Delhi-NCR, stating that she was unable to shift to Vijayawada since her husband has a non-transferable job, as Section Officer, Ministry of Jal Shakti, Government of India, New Delhi, and that she has a three-and-a-half-year-old child for whom there is no other available childcare.

5. The relieving letter dated 21.04.2023⁴ refers to the aforesaid communication and advises her that she has been relieved “*In-absentia*” to report to Vijayawada on or before 24.04.2023.

6. Although it is stated in the writ petition that the petitioner continued to make personal visits to the Bank’s office and reiterated her

² Annexure A-3 to the writ petition.

³ Annexure A-4 to the writ petition.



requests in these terms, the next written communication on record is the Bank's communication of two months thereafter, on 20.06.2023⁵. It is titled "**Unauthorized Absence – Recall Letter – 1**" and states that the petitioner has been on continuous absence from duty since 22.04.2023. She was advised to report for duty immediately at Regional Office-Vijayawada for further posting within a period of seven days, failing which disciplinary action would follow.

7. The petitioner responded with another representation dated 26.06.2023 seeking transfer to Delhi-NCR. The grounds for the request were stated as follows:

*"I recently received a recall letter dated 20.06.2023, requesting my immediate joining in the Vijaywada region. **I regret to inform you that due to personal circumstances, I am still unable to comply with the transfer order.***

*As mentioned in my previous communication and representation letter dt 17.04.2023 sent via mail on 17.04.2023 and also delivered through personal visit to PAD Supervisory Section, Central Office Chennai on 28.04.2023, **I have a 3 and a half-year-old son who requires my utmost attention and care at this crucial stage of his development. Keeping a child in day care which have fixed timings will limit my concentration and ability to perform best for my esteemed organization in Vijaywada. Furthermore, my husband holds a non-transferable job in Central Government in Delhi, which limits my options for relocation with three-and-a-half-year-old child at place having distance of 2000 KM. It is just nightmare for me to keep my child in crèche, attend office and live in Vijaywada alone. where the language and mode of life is different. My only parent, my mother is 72 years old and she has fracture in both legs, she is also not able to accompany with me.***

*Considering these factors, **it would be extremely challenging for me to uproot my family and join, the Vijaywada region at this time.***

*I understand the importance of fulfilling my professional obligations and **I deeply regret any inconvenience caused by my inability to join***

⁴ Annexure A-5 to the writ petition.

⁵ Annexure A-6 to the writ petition.



***the assigned region.** I assure you that my commitment to the Indian Overseas Bank remains unwavering, and I am eager to contribute to the organization's growth and success.*

In light of the circumstances, I kindly request your understanding and consideration. I would be extremely grateful if you could review my case and allow me the opportunity to transfer to the Delhi NCR region or any other nearby region instead of Vijaywada, which is 2000 KM far away from my husband posting. This alternative transfer would greatly alleviate the difficulties faced by my family and ensure that I can continue to serve the bank with dedication and efficiency.

I assure you that I will make every effort to ensure a smooth transition and will comply with any additional requirements or formalities associated with the transfer. My experience and knowledge gained during 11 years' service in Indian Overseas Bank would also enable me to contribute effectively to the operations in the Delhi NCR region.

I genuinely appreciate your attention to this matter and sincerely hope that my request will be taken into consideration. I am available for any further discussions or meetings to discuss this matter in detail and provide any additional information that may be required.

Thank you for understanding. I eagerly await a favourable resolution to my request.”⁶

8. A second recall letter was issued by the Bank on 16.08.2023, granting the petitioner a further period of seven days to report at Vijayawada⁷. Her response, dated 28.08.2023, reiterated the contents of the letter dated 26.06.2023, in broadly the same terms as her earlier representation.

9. Another three months passed before the Bank issued a third recall letter dated 20.11.2023⁸, once again requiring the petitioner to report at the Regional Office-Vijayawada within seven days. Her response, dated 05.02.2024, was again on the same lines as her earlier representations.

10. The Bank then issued a Show Cause Notice dated 06.03.2024⁹,

⁶ Emphasis supplied.

⁷ Annexure A-7 to the writ petition.

⁸ Annexure A-8 to the writ petition.

⁹ Annexure A-8 to the writ petition.



referring to the petitioner's unauthorised absence from 22.04.2023, despite three recall notices. The Show Cause Notice specifically recorded that the petitioner's representations have not been considered favourably and stated that it had been decided to terminate her services with three months' notice in terms of Regulation 20(1)(a) of the Indian Overseas Bank (Officers') Service Regulations, 1979 ["Service Regulations"]. She was advised to submit her reply within fifteen days.

11. The petitioner responded to the Show Cause Notice on 21.03.2024, expressing her regret for the inconvenience and disruption caused due to her absence. She mentioned her personal difficulties and sought a transfer within Delhi-NCR, on the same grounds as in her earlier representations.

12. By an e-mail dated 04.04.2024, she was informed that her request had not been favourably considered and that the reasons mentioned by her did not justify her continued absence since 22.04.2023. At this stage, on 16.04.2024, the petitioner stated that she wished to join her duties at Vijayawada on 20.04.2024. The communication states, "*I understand and respect the decisions taken by the Competent Authority,*" and that she was fully prepared and committed to fulfilling her responsibilities at the Vijayawada Region Office.

13. The Bank, by then, had already issued a communication on 15.04.2024, terminating the petitioner's services. The Bank recorded that the petitioner's absence from duty has caused dislocation to the functioning of the Bank, administrative inconvenience, and constitute a breach of the guidelines with regard to leave issued by the Bank. The order was to come into effect on the expiry of three months thereafter.

14. The petitioner filed an appeal against the order of termination dated



23.04.2024, which was rejected by the second impugned order dated 19.11.2024.

15. I have heard Mr. Sumit Sharma, learned counsel for the petitioner, and Mr. Chandra Prakash, learned counsel for the Bank.

16. The Bank's actions are based upon Regulation 20(1) of the Service Regulations, which reads as follows:

“20. Termination of Service-

1.(a) Subject to sub-regulation (3) of Regulation 16, where the bank is satisfied that the performance of an officer is unsatisfactory or inadequate or there is a bonafide suspicion about his integrity or his retention in the bank's service would be prejudicial to the interests of the bank, and where it is not possible or expedient to proceed against him as per the disciplinary procedure, the Bank may terminate his services on giving him three months notice or emoluments in lieu thereof in accordance with the guidelines issued by the Government from time to time:

“i. Order of termination under this sub-regulation shall not be made unless such officer has been given a reasonable opportunity of making a representation to the Bank against the proposed order.

ii. The decision to terminate the services of an officer employee under sub-regulation (a) above will be taken only by the Chairman and Managing Director.

iii. The Officer employee shall be entitled to appeal against any order passed under sub-regulation (a) above by preferring an appeal within 15 days to the Board of Directors of the Bank. If the appeal is allowed, the order under sub-regulation (a) shall stand cancelled.

iv. Where an officer employee whose services have been terminated and who has been paid an amount of three months' emoluments in lieu of notice and on appeal his termination is cancelled, the amount paid to him in lieu of notice shall be adjusted against the salary that he would have earned, had his services not been terminated and he shall continue in the Bank's employment on same terms and conditions as if the order of termination had not been passed at all.

v. An Officer employee whose services are terminated under Sub-regulation (a) above, shall be paid Gratuity, Provident Fund including employer's contribution and all other dues that may be admissible to him as per rules notwithstanding the years of service rendered.

vi. Nothing contained herein above will affect the bank's right to retire an officer employee under Reg.19(1).”



17. In the present case, the Bank had sought to transfer the petitioner in accordance with Regulation 47 of the Service Regulations, which provides that every officer is liable for transfer to any office or branch of the Bank or to any place in India. Regulation 49 provides for a joining time of seven days to join at the transferred post.

18. The Bank has also formulated a “Transfer Policy for Officers”, which provides that an officer would be stationed in a particular region for not more than six years, and in a particular State for not more than ten years.

19. The petitioner’s transfer to Delhi in the year 2016 was admittedly at her own request. Her six years of service in the State would ordinarily have come to an end in 2022, but Mr. Sharma draws my attention to Clause 4(d) of the Transfer Policy, which excludes the period of sabbatical leave in the period of stay in the region. Even taking this point in the petitioner’s favour, her maximum tenure in the region would have come to an end in July 2023. This point need not detain us further, as the petitioner was requested, at least until November, 2023 to join at the transferred post. In any event, she did not, at any stage, challenge her transfer on account of any breach of the Policy. Instead, her representations consistently allude to her personal circumstances – the non-transferable job of her husband in Delhi, the young age of her child, and the failing health of her mother. Additionally, in her later representations, the petitioner refers to the challenges of relocation to a distant location in a new region with different cultural norms, lifestyle, and language.

20. Mr. Sharma has drawn my attention to certain clauses of the



Transfer Policy, which provide for special consideration for the transfer of women officers. These include Clause 10(b), which provides that the benefit of transfer for joining the spouse can be exercised twice during the officer's entire service. It reads as follows:

“10. Transfer of Officers – on Spouse grounds

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xxxx

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b. Where the spouse belongs to another Public Sector Bank/Government

Joining Spouse means lady staff members joining their Husband's place other than IOB Spouse.

If the spouse is employed in another Public Sector Bank or Government, Bank may, to the extent possible consider posting the said officer to the office/branch of the Bank at the station where the spouse is working in the other Bank and if there is no office/branch of the Bank at the station/centre, then to the State/City/Centre where spouse is posted.

However, in any case, such transfers on joining the spouse will be allowed maximum of two times during service. Any change is to be considered at MD & CEO level/in his absence, by ED in charge of the HR portfolio, with proper justification recorded in writing.

The guidelines issued by Govt. of India from time to time will be followed, subject to availability of vacancies.

Note: Lady staff members, transferred on spouse joining request on above two grounds, shall not be eligible to claim leased accommodation, on joining their spouse if he owns a house or is provided with leased accommodation/quarters by his employer at that center. However, other benefits will continue.”¹⁰

21. As far as this aspect is concerned, it is accepted that the petitioner had exercised this option in the year 2022 and was posted in Delhi, at her request, on the grounds that her spouse was stationed there. The transfer of 2023 was after the completion of seven years in Delhi. The petitioner's request in this case does not fall within the said Clause, as she was

¹⁰ Emphasis supplied.



already stationed at her husband's place of work. The Clause, on a plain reading, permits a request to be made only when the spouse has been transferred from a place other than that where the officer is posted.

22. In the counter affidavit filed by the Bank, it is stated that the petitioner, having completed two terms in the region after her transfer in accordance with Clause 10(b), has exhausted the said provision.

23. Mr. Sharma submitted that the petitioner's representations had not been specifically answered. To the contrary, I find that the repeated communications addressed to her could have left her in no doubt as to the status of her representations for transfer within Delhi-NCR.

24. In fact, she was treated with great leniency. The Bank issued the first recall notice two months after she had been relieved from Delhi, and two further recall notices, at intervals of two months and three months, respectively. It issued the show cause notice to her only after more than three further months had passed. The lapse of time between her relieving from the Delhi Office on 21.04.2023 and the final order of rejection on 04.04.2024, was thus almost one year. She remained on unauthorised absence for this entire period. As noticed above, her letters do not suggest that the transfer order was violative of the Service Regulations or the Transfer Policy; she accepts that she has caused inconvenience and disruption in the functioning of the Bank and expresses her regret for the same. In these circumstances, having granted the petitioner more than sufficient opportunities and time to comply with the transfer order, the Bank cannot be faulted for invoking Regulation 20 of the Service Regulations.

25. Mr. Sharma then referred to the petitioner's communication dated



16.04.2024, in which she expressed her desire to comply with the transfer order. However, this is clearly a case of “too little, too late”. For one year since the order of transfer was received, she persisted in her continued unauthorised absence, including in her initial response to the Show Cause Notice under Regulation 20(1)(a). This conduct does not reflect diligence or desire to fulfil the conditions of employment, in accordance with the Service Regulations.

26. The Bank has also adverted, in the counter affidavit, to the fact that, according to the petitioner, her spouse is in a non-transferable job in Delhi, and it is not possible to accede to her request on this ground, which is not of a temporary nature. The Bank has expressed its desire to treat other employees who have adhered to the Transfer Policy, despite having similar difficulties, fairly. Having regard to the aforesaid reason, the Bank has expressed its apprehension that acceding to a request such as the petitioner’s, at this stage, would create an unviable precedent.

27. I do not find any arbitrariness or unreasonableness in the contentions taken by the Bank in this regard, so as to invite interference under Article 226 of the Constitution.

28. It is well settled that, in a transferable job, transfer is an incidence of service, and is not to be interfered with, unless effected in violation of mandatory statutory rules. The Service Regulations, in the present case, specifically provide for transfer anywhere within India. The petitioner’s contentions, other than her specific family circumstances, refer to the distance between Delhi and Vijayawada, and differences in lifestyle, language and culture, which make the posting challenging for her. Such considerations are wholly misconceived and, in fact, demonstrate the



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petitioner's reluctance to abide by Regulation 47 of the Service Regulations, to which she was bound.

29. For the aforesaid reasons, I find no merit in the writ petition, which is accordingly dismissed.

FEBRUARY 20, 2025

"Bhupi/Jishnu"

PRATEEK JALAN, J