
(2009) 09 P&H CK 0018
In the Punjab And Haryana At Chandigarh

Raj Pal Singh Suhag

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 17-09-2009

Acts Referred:

Citation : (2009) 156 PLR 650

Hon'ble Judges : S.D. Anand, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.D. Anand, J.—It is not a matter of dispute that the petitioner, who had been appointed a Coach in the Sports Department in the State of Haryana against a temporary post which was sanctioned upto 20.2.1989 vide Annexure P-1, resigned from service vide resignation letter dated 18.4.1991. In lieu of the one month notice, he deposited one month salary into the Government Treasury. He requested for the acceptance of resignation before 20.4.1991 in order to be able to file his nomination papers for contesting the assembly election from Sahlawas constituency. The resignation was accepted on 22.4.1991 (Annexure P-4) and he was relieved from duties with effect from 18.4.1991. There was a change of mind on the part of the petitioner who, vide letter Annexure P-5, applied for his reappointment to the post aforementioned. That request of his was declined by the competent authority, vide letter Annexure P-6. The petitioner was told that he could not be taken back into service under the rules and that he could apply afresh for that post, if any comes to be advertised in future. It was, however, made clear that, even if he is selected, he will not be given any benefit of past service rendered by him. That rejection of the request impelled the petitioner to file this petition for issuance of a writ of Mandamus directing the respondents to permit him to withdraw the resignation.

2. The essential sustenance, in support of the request, was based upon the case of certain other employees of the Government of Haryana, though in the Departments other than the Department which the petitioner had joined, who

had similarly resigned to contest the assembly election and who were taken back in service.

3. The respondents averred the validity of impugned order by raising a plea that the resignation tendered by the petitioner having been accepted, there was no way he could have asked for the withdrawal thereof. Qua cited cases, it was averred that the detailed facts thereof had not been indicated.

4. In the course of the arguments, learned Counsel for the petitioner placed implicit reliance upon the judgment rendered by a Division Bench of this Court in Civil Writ Petition No. 1154 of 1984 on 10.8.1984. The learned Counsel, in that context, also drew sustenance from the fact that a number of similarly circumstanced employees of other Departments in the Government of Haryana had been allowed to withdraw their resignation which they had tendered in order to be able to contest the assembly election.

5. On the other hand, learned Counsel for the respondents placed reliance upon Raj Kumar Vs. Union of India (UOI), and Chand Mal Chayal Vs. State of Rajasthan, to buttress the plea that an employee can withdraw his resignation only before the acceptance thereof and that with the acceptance of the resignation, the jural relationship between the employee and the employer ceases and the employee cannot claim reinstatement to that very post.

6. I have given my careful thought to the controversy under adjudication. In view of the fact that there is no controversy about the facts, I would proceed to deal, at the very outset, with the judicial pronouncement relied upon.

7. In Raj Kumar's case (supra), the petitioner therein was a member of the Indian Administrative Service. While posted as Collector-cum-District Magistrate, Kota, he forwarded his resignation letter on 21.8.1964 to the Chief Minister, Rajasthan. On 30.8.1964, he also addressed the Chief Secretary to that Government requesting for the early acceptance of the resignation. The State Government recommended the acceptance of the resignation to the Government of India. On 31.10.1964, the Government of India accepted the resignation of the employee aforementioned and required the Chief Secretary to that Government "to intimate the date on which the appellant was relieved of his duties so that a formal notification could be issued in that behalf On 27.11.1964, the officer addressed the Chief Secretary to the Government of Rajasthan to recommend the acceptance of the withdrawal of his resignation from the Indian Administrative Service. He simultaneously also addressed the Secretary to Government of India, Ministry of Home Affairs. On 29.3.1965, "an order accepting the resignation of the appellant from the Indian Administrative Service was issued and the appellant was directed to hand over the charge to the Additional Collector, Kota." On the declining of the request, the officer filed a petition in the High Court of Punjab at Delhi. The challenge was unsuccessful. The Court observed that the resignation became effective on the date "on which it was accepted by the Government of India, and a subsequent withdrawal of the

resignation was ineffective, even if acceptance of the resignation was not intimated to the appellant" While dismissing the SLP filed by the officer, the Apex Court observed that "the principle of that case has no application here. Termination of employment by order passed by the Government does not become effective until the order is intimated to the employee. But where a public servant has invited by his letter of resignation determination of his employment, his services normally stand terminated from the date on which the letter of resignation is accepted by the appropriate authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the public servant to withdraw his resignation after it is accepted by the appropriate authority. Till the resignation is accepted by the appropriate authority in consonance with the rules governing the acceptance, the public servant concerned has locus poenitentiae but not thereafter."

8. In Chand Mal Chayal's case (supra), the petitioner therein (a Reader/Court Master in a Magisterial Court) had tendered his resignation on 27.1.1990 in order to be able to contest the assembly election to be held in that year. The resignation came to be accepted on 28.1.1990 and the petitioner was relieved from the post on 29.1.1990. In the petition dated 12.2.1990, addressed to the District Judge, the petitioner therein requested for being allowed to retain that post. The plea did not find favour with the District Judge. That order passed by the District Judge was challenged in a writ petition which was disposed of by the High Court by directing an enquiry to be held on the administrative side. The enquiry committee which indeed come to be constituted on the administrative side, (committee) furnishes its report on 26.6.1991. After exchange of lot of correspondence between the Government and the High Court, the request of the petitioner therein for reemployment was rejected by the Government. The petitioner therein lost the battle before the High Court and filed a SLP. After analysing the relevant rules, the Apex Court dismissed the SLP with the following observations:

By now it is a well-settled principle of law that an incumbent is entitled to withdraw his resignation before the acceptance. Once his resignation is accepted there is no jural relationship between the employee and the employer and the employee cannot claim for withdrawal of the resignation nor reinstatement in the post.

9. Insofar as the petitioner herein is concerned, he did not apply for the withdrawal of the resignation. Infact, it would be apparent from a perusal of his request Annexure P-5 that he applied for repayment reappointment to the service. This inference is validated by averment made in Annexure P-5 by the petitioner which (Annexure P-5) described subject as under:

Request for reappointment in service on not getting the ticket for assembly elections

10. In the rejection letter Annexure P-6 as well, the Director, Sports Department,

Government of Haryana, informed the petitioner that he could not be reappointed as a Coach under the rules. That order made it clear that petitioner herein could otherwise raise his candidature if the post of Coaches are advertised in future but that, even if he is selected at that selection process, he would not be able to claim any benefit of the past service. It would, thus, be seen that the Competent Authority rejected the plea of the petitioner for "reappointment" for want of rules in the relevant behalf. Even presently, the learned Counsel for the petitioner has not been able to invite the attention of the Court to any rule providing for "reappointment".

11. The reliance placed by the learned Counsel for the petitioner on D.B. Judgment Annexure P-8 is misconceived because it stands legally eclipsed by the law laid down by the Apex Court in Raj Kumar's case (supra) and Chand Mal Chayal 's case (supra). Having said that in terms of the legal adjudication, it would also require pertinent notice that no interim relief was granted to the petitioner in this Court. In that view of things, he has had nothing to do with the indicated employment since the year 1991.

12. In the light of foregoing discussion, the petition is held to be devoid of merit and is ordered to be dismissed.