

**(1995) 01 P&H CK 0042**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 2869 of 1993**

Rajinder Bhushan

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

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**Date of Decision :** 11-01-1995

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Punjab Civil Services Rules — Rule 7.5, 7.5(6)

**Citation :** (1995) 110 PLR 78

**Hon'ble Judges :** H.S. Brar, J; A.P. Chowdhri, J

**Bench :** Division Bench

**Advocate :** R.K. Malik, for the Appellant; Randhir Singh, A.A.G., for the Respondent

**Final Decision :** Dismissed

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## Judgement

A.P. Chowdhri and H.S. Brar, JJ.—Brief facts giving rise to this petition are that the petitioner joined as Assistant Press Operator in the office of the Chief Agricultural Officer on January 28, 1976. On January 27, 1992, he submitted his resignation in order to contest the Assembly elections. Along with the resignation, he deposited one month's pay and allowances amounting to Rs. 2,358/-. On February 25, 1992, the petitioner applied for withdrawal of the resignation. His case is that before the resignation could be accepted, the letter of withdrawal of resignation had been received in the office of Director of Agriculture, respondent No. 2. According to the petitioner, respondent No. 2 accepted the resignation on March 5, 1992, without considering the request for withdrawal of the resignation. The petitioner seeks a direction in the nature of certiorari quashing the order accepting the resignation on March 5, 1992. by which time request for withdrawal of the resignation had been made to respondent No. 2. He further seeks a direction that he be deemed to be in service in terms of the provisions of Rule 7.5 of the Punjab Civil Services Rules, Volume-I, Part-I.

2. In the written statement filed by the Chief Agricultural Officer, Sangur, on behalf of respondents 1 to 3, it has been stated that the only ground for the resignation was that the petitioner intended to contest the Assembly elections from Sunam constituency, It was further stated that the petitioner's request for withdrawal of the resignation, which bears the date February 25, 1992, was, in fact, received in the office of the Chief Agricultural Officer only on March 9, 1992, when it was duly entered in the receipt register against serial No. 1862 of that date. It has further been stated that the petitioner's resignation dated January 27, 1992, had been accepted by the competent authority i.e. Director of Agriculture respondent No. 2 on February 26, 1992, long before the receipt of the application for withdrawal of the resignation. It was denied that the petitioner had applied for withdrawal of the resignation to the competent authority prior to March 9, 1992. It has further been stated that the Director of Agricultural after considering the request for withdrawal of resignation sought a clarification from the State Government whether an employee who tendered resignation to contest election to the State Assembly and offered to withdraw the resignation after having lost the election, could be permitted to join. The Government, after considering the matter, replied in the negative and according the petitioner's request the withdraw the resignation was rejected.

3. We have heard Mr. R.K. Malik for the petitioner and Mr. Randhir Singh, AAG, Punjab, for the State.

4. Mr. Malik has raised two contentions: His first contention is that the request for withdrawal had been delivered in the office of respondent No. 2 before petitioner's resignation was accepted. In other words, the contention is that the resignation stood withdrawn before it could be accepted and there was, thus, no occasion for respondent No. 2 to accept the resignation. His second contention is that assuming that the resignation has been accepted before request for its withdrawal was received by respondent No. 2, the case of the petitioner was squarely covered by the provisions of Rule 7.5 of the Punjab Civil Services Rules, Volume-I, Part-I, and as all the conditions laid down in that rule had been fulfilled the Director had little choice and he was bound to accept the withdrawal.

5. We have given our anxious consideration to the above contentions.

6. In order to resolve the first point, we have seen the original record from the office of the Director of Agricultural relating to acceptance of resignation. The record has been shown to the learned counsel for the petitioner as well. According to the record, the resignation letter was put up to the Director on February 26, 1992, with the recommendation of the Deputy Director and on the same day, namely, February 26, 1992, the Director accepted the resignation and marked the file down to the Deputy Director and so on. It follows that resignation of the petitioner was accepted on February 26, 1992. We, therefore, find no substance in the plea that resignation was accepted after the receipt of letter seeking to withdraw the resignation.

7. In order to deal with the second contention, we may reproduce the relevant part of Rule 7.5. of the Punjab Civil Service Rules, Volume-I, which is in the following terms:-

"...

(4) The appointing authority may permit a person to withdraw his resignation in public interest on the following conditions, namely:-

(i) that the resignation was tendered by the Government employee for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation;

(ii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;

(iii) That the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdrawn the resignation is not more than ninety days;

(iv) that the aforementioned period of ninety days shall be observed in the manner that the employee concerned should put in his application for withdrawal of resignation within two months of being relieved and the same should as far as possible be processed within a period of one month; and

(v) that the post, which was vacated by the Government employee on the acceptance of his resignation or any other comparable post, is available.

(5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government employee resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.

(6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption in service shall not count as qualifying service."

8. The contention of Mr. Malik is that the petitioner fulfilled all the requirements of the above rule and, therefore, there was no reason why the petitioner's request for withdrawing the resignation should not have been granted. He has placed reliance on two Single Bench decisions in Sukhdev Singh v. Government of Punjab 1986(2) S.L.R. 329 and Suresh Kumar v. State of Haryana, (CWP No. 7091 of 1992 decided on May 30,1993) (unreported).

9. We do not accept the contention of Mr. Malik. A careful reading of the above rule shows that the guiding principle underlying the above rule is public interest. Sub-clause (i) of clause (4) further shows that the rule has been framed in order to deal with cases of resignation which a Government employee has submitted "for some compelling reasons" and "request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation." sub-clause (ii) further gives an indication that in the interregnums period i.e. from the resignation till the date on which request for withdrawal is made, the conduct of the person was in no way improper. We find it almost impossible to hold that contesting the State Assembly election would amount to a compelling reason for submitting the resignation within the meaning of the above rule. In our view, it would be ridiculous that a Government servant submits resignation, contests the State Assembly elections and on losing the same reports back and insists that he shall be taken back into service with continuity as referred to in sub-rule (6) reproduced above. Nor can the conduct of an officer to contest election while being in Government service be considered to be not improper. We may also point out that the petitioner has not assailed the order whereby his application for withdrawal of the resignation was rejected. As there is no challenge to that order, it is not necessary to deal with its validity.

10. We have gone through the two decisions relied on by Mr. Malik. For the reasons already discussed by us, the said decision do not advance the petitioner's case and we are, therefore, not inclined to follow the same.

11. Lastly, it was submitted by Mr. Malik that the resignation was allowed to be withdrawn in the case of Dhawa Ram, Sub-Inspector, Cooperative Societies, referred to in Sukhdev Singh's case (supra) and it will be a case of discrimination to arbitrarily reject the petitioner's request for withdrawal of resignation. We do not have the precise details of the case of Dhawa Ram before us. We are further of the view that two wrongs do not make a right. If in a particular case a decision contrary to the statutory rules has been taken, no one acquires a right to perpetuate the wrong interpretation of the rules on the ground of invidious discrimination. For these reasons, we find no merit in this writ petition. It is dismissed, leaving the parties to bear their own costs.