

(2019) 02 CHH CK 0227

Chhattisgarh High Court

Case No: Writ Petition (S) No. 945 Of 2019

Ashish Kumar Soni

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Feb. 14, 2019

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Satya Priya Soni, Shrijan Shukla, Astha Shukla

Final Decision: Allowed/Disposed Of

Judgement

P. Sam Koshy, J

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 04/05/2018 whereby the respondents have accepted the resignation

letter which the petitioner has submitted on 23/02/2018 and have rejected the subsequent withdrawal of the resignation letter that the petitioner had submitted on 23/03/2018.

2. The facts of the case in brief is that, the petitioner initially was appointed on casual basis vide order dated 29/06/2013. Having worked for about 5

years, the petitioner submitted his resignation because of certain family compulsions vide Annexure-P/3 dated 23/02/2018 and in the said application it was mentioned that the services would stand seized with effect from 28/02/2018.

3. However, the petitioner subsequently on 13/03/2018 moved an application for withdrawal of his resignation and the same was submitted to the respondent No.2.

4. On submission of the said withdrawal of his resignation, the Director i.e. the respondent No.2 permitted the petitioner to resume his duties and from

13/03/2018 onwards, the petitioner has been working with the respondents till the impugned order - Annexure-P/1 was passed wherein the resignation

letter is said to have been accepted and at the same time his application for withdrawal dated 13/03/2018 has been rejected.

5. So far as the resignation part is concerned, the law is well settled that the petitioner or an employee has a right for withdrawal of his resignation before the same is accepted by the department.

6. In the instant case, what is revealed from the proceedings is that, the petitioner had submitted his resignation on 23/02/2018 and the same was withdrawn on 13/03/2018.

7. What also cannot be lost sight of is that on 13/03/2018, the respondent No.2 permitted the petitioner to resume his duties thereby revived his employment and the petitioner worked continuously till the impugned order - Annexure-P/1 was passed on 04/05/2018.

8. Once the respondents have taken the petitioner back in service on 13/03/2018 in the light of the application for withdrawal of his resignation, the respondents could not have subsequently acted on the resignation letter which was earlier submitted on 23/02/2018.

9. Moreover, from the impugned order what also reflects is that, the acceptance of his resignation was on 4th May 2018 w.e.f. 26/04/2018 i.e. after about 3 months from the date when the petitioner had sought for to be relieved from service and within that time itself the letter dated 13/03/2018 had already been submitted and it was well within the knowledge of the respondents so far as the withdrawal of his resignation letter. Once when the respondents have passed an order on 04/05/2018 would by itself mean that the petitioner was directed to be in service till 04/05/2018. The fact that he was given joining from 13/03/2018 would further establish that he had resumed his service and his employment should be revived.

10. Given the aforesaid facts and circumstances of the case this Court is of the opinion that the acceptance of resignation of the petitioner vide Annexure-P/1 does not seem to be proper, legal and justified and the same needs to be reconsidered by the authorities.

11. Accordingly, the impugned order - Annexure-P/1 stands set- aside/quashed and the petitioner has to be taken back in employment. However he

would not be entitled for wages for the intervening period but will have continuity of employment.

12. The Writ Petition accordingly stands allowed and disposed off.