

Kumudini Kachhap W/o Jyoti Lakra Vs State Of Jharkhand

Court: Jharkhand High Court

Date of Decision: Jan. 24, 2025

Acts Referred: Constitution of India, 1950 " Article 226

Hon'ble Judges: Ananda Sen, J

Bench: Single Bench

Advocate: Rajesh Kumar, Ratnesh Kumar

Final Decision: Dismissed

Judgement

Ananda Sen, J

1. In this writ petition, petitioner has prayed for a direction to the respondents to accept her joining by ignoring her resignation letter as the same was

tendered on being pressurized by the then In-charge Medical Officer, Bhandra. Petitioner has also prayed for payment of salaries from January 2019

to August 2019.

2. Learned counsel for the petitioner contended that before acceptance of resignation and before communicating such acceptance, petitioner had

withdrawn her resignation. He argued that once the petitioner had withdrawn her resignation, respondents could not have accepted the said resignation

letter, rather should have accepted petitioner's joining. He argued that the resignation was not voluntary and the same was because of the

pressure by the In-charge Medical Officer, Bhandra.

3. Learned counsel appearing on behalf of the State argued that the petitioner had voluntarily resigned from the services and the withdrawal of

resignation was after her resignation was accepted, thus, this writ petition needs to be dismissed. Respondents further argued that the petitioner has

secured service by playing fraud. It was found that the petitioner, by suppressing information, had obtained service. When, the,

respondents contemplated to take appropriate action, the petitioner had resigned.

4. The issue, which falls for consideration before this Court is in respect of a dispute involving withdrawal of resignation letter. It is settled principle of

law vide judgment of the Hon'ble Supreme Court in the case of Dr. Mrs. Suman V. Jain versus Marwadi Sammelan [2024 SCC OnLine SC

161]; Air India Express Limited versus Captain Gurdarshan Kaur Sandhu [(2019) 17 SCC 129]; Srikantha S.M. versus Bharath Earth

Movers Limited [(2005) 8 SCC 314]; Balram Gupta versus Union of India [1987 Supp SCC 228]; Union of India versus Gopal Chandra

Misra [(1978) 2 SCC 301]; that a resignation tendered by an employee can be withdrawn at any time prior to acceptance of the same.

5. The Hon'ble Supreme Court, in the case of Chand Mal Chayal versus State of Rajasthan reported in (2006) 10 SCC 258 at paragraph 3

thereof has observed as under: -

“3. 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. In the present case, the resignation is accepted.

6. The main question, which falls for consideration in this writ petition is whether the employee had withdrawn the resignation before its acceptance by

the employer or not. From the documents annexed with the writ petition and the counter affidavit, I find that the petitioner had submitted her

resignation on 17.12.2018. The resignation letter is at Annexure E to the Counter Affidavit. In the said resignation letter, I find that the

petitioner has written that due to family problem and mental pressure, she is not in a position to work, thus, she is resigning. In the resignation letter,

there is an endorsement dated 21.12.2018 that “resignation is granted”. In the resignation letter, there is a further endorsement to inform the

aforesaid acceptance to the petitioner. The date of such endorsement is 02.01.2019. Annexure F to the Counter Affidavit is letter dated

02.01.2019 addressed to the Medical Officer, Lohardaga with a copy to this petitioner intimating acceptance of the resignation. On 03.01.2019, the

petitioner has withdrawn her resignation, stating that she was pressurized to resign by Dr. Mukul Kumar and now she does not want to resign rather

wants to work.

7. From the aforesaid sequence of events, it is clear that the petitioner's resignation was accepted on 21.12.2018 and the same was

communicated to the petitioner on 02.01.2019. The petitioner had withdrawn her resignation on 03.01.2019, i.e., after acceptance of the resignation.

Thus, from the documents I find that the resignation of the petitioner was accepted before the petitioner withdrew the same.

8. Whether the resignation was by coercion or due to pressure by one Dr. Mukul Kumar or not, is a disputed question of fact, which cannot be

decided in an application under Article 226 of the Constitution of India.

9. In view of what has been held and observed above, since the resignation was accepted prior to its withdrawal, I am not inclined to entertain this

writ petition. This writ petition is, accordingly, dismissed. Pending interlocutory applications, if any, stand disposed of.