

Sandeep Kumar Vs State of Haryana and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 26, 2013

Citation: (2013) 172 PLR 365 : (2014) 2 SCT 749

Hon'ble Judges: Tejinder Singh Dhindsa, J

Bench: Single Bench

Advocate: Mukesh Yadav, for the Appellant;

Final Decision: Allowed

Judgement

Tejinder Singh Dhindsa, J.

Brief facts of the case are that the petitioner was appointed as Clerk cum Typist in the Sessions Division

Narnaul on 18.09.2009. While working as Additional Ahlmad in the Court of Additional Civil Judge (Senior Division) Narnaul, the petitioner

applied for the post of Clerk cum Junior Data Entry Operator in Maharishi Dayanand University, Rohtak through proper channel. The petitioner

was duly selected for such post in the university. Accordingly, the petitioner submitted an application dated 06.01.2012 to the District and

Sessions Judge, Narnaul seeking resignation from service. Vide order dated 07.11.2012, the request made by the petitioner as regards resignation

was duly accepted. Challenge in the present writ petition is to the order dated 05.02.2013 at Annexure P-4, whereby his application seeking

withdrawal of his resignation and for being re-appointment on the post of Additional Ahlmad has been declined.

2. Counsel for the petitioner has vehemently argued that the impugned order dated 05.02.2013 (Annexure P-4) cannot sustain as the same is a non

speaking order and no reasons have been assigned for declining the request of the petitioner seeking re-appointment. In support of such

submission counsel has placed reliance upon a judgment of this Court in Suresh Kumar Vs. State of Haryana, 1993 (4) SCT 716. That apart,

counsel has also argued that there have been compelling reasons on account of which the petitioner had been forced to submit his initial request

seeking resignation from service. In this regard, counsel would refer to the application dated 19.12.2012 (Annexure P-3) submitted to the District

& Sessions Judge, Narnaul, wherein averments made to the effect that the father of the petitioner had suffered heart attack and had been taken in

hospital in Jaipur and it was on account of the financial condition of the family and mental tension that the request for resignation has been

submitted. It has been argued that such extreme circumstances, which were the basis of submitting the request for resignation have not been taken

into account while passing the impugned order dated 05.02.2013 (Annexure P-4).

3. Having heard counsel for the petitioner at length, I find that the claim of the petitioner is wholly misconceived.

4. An employee who chooses to resign from service and such resignation having been accepted may make an application for withdrawal of

resignation and claim reinstatement. Such a request and claim is covered under the relevant provisions of the Punjab Civil Services Rules i.e. Rule

7.5. The relevant provision reads in the following terms:

Rule 7.5 of the Punjab Civil Services Rules reads as under:

(1) Resignation from a service or a post, unless it is allowed to be withdrawn in public interest by the appointing authority, entails forfeiture of past

service.

(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether

temporary or permanent, under the Government where service qualifies for pension.

(3) Interruption in service in a case falling under sub rule (2), due to the two appointments being at different stations, not exceeding the joining time

permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government employee, on the date of relief or by

the formal condonation to the extent to which the period is not covered by leave due to him.

(4) The appointment 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 of a material change in the circumstances which originally compelled him to tender his 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 result of permission to withdraw 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 his application for

withdrawal of resignation within two months of being relieved and 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. A perusal of the relevant provision would make it apparent that the Appointing Authority may permit a person to withdraw his resignation in

public interest subject to certain conditions, one of which is that the resignation was tendered by the concerned employee for some compelling

reasons which do not reflect on his integrity, efficiency or conduct. The rule also takes into account the situation, where such request would not

involve any change in circumstances which had originally compelled him to tender the resignation.

6. The claim of the petitioner would have to be examined in the light of such statutory provision. The application submitted by the petitioner seeking

resignation from service dated 06.11.2012 has been placed on record at Annexure P-1. Such application clearly spells out the reasons for which

the petitioner had sought resignation. The application clearly states that he had applied for the post of Clerk from Junior Data Entry Operator in

Maharishi Dayanand University, Rohtak and it was in view of his selection and appointment with the University that the application seeking

resignation had been submitted.

7. The request for reinstatement and withdrawal of resignation dated 19.12.2012 refers to the health condition of his father. Such basis was not the

compelling circumstances on account of which the petitioner had submitted the application dated 06.11.2012 (Annexure P-1).

8. Clearly, there has been a change of mind that the petitioner is now seeking to revert back to his original employment. The statutory rule i.e. Rule

7.5 of the Punjab Civil Service Rules does not envisage any such request as has been made by the petitioner. Accordingly, I do not find any

infirmary in the impugned order dated 05.02.2013 at Annexure P-4, whereby his request for re-appointment on the post of Ahlmad has been

declined.

9. Even the reliance placed by the learned counsel for the petitioner upon the decision in Suresh Kumar's case (supra) is misplaced. In that case,

no order declining the request of the petitioner therein had been conveyed. That apart, the State Government had also not repelled the specific

contention of the petitioner therein that the similarly situated persons had been permitted to withdraw the resignation and allowed to continue on the

post held by them. Such judgment shall not enure to the benefit of the petitioner. For the reasons recorded above, there is no merit in the present

writ petition and the same is accordingly dismissed.