

(2008) 03 CHH CK 0011

Chhattisgarh High Court

Case No: Writ Petition No. 4189 of 1997

Renu Girdhar (Smt.)

APPELLANT

Vs

Steel Authority of India Ltd. and
Others

RESPONDENT

Date of Decision: March 3, 2008

Citation: (2008) 4 MPJR 92

Hon'ble Judges: Satish K. Agnihotri, J

Bench: Division Bench

Advocate: V.G. Tamaskar, for the Appellant; Adil Minhaz, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Satish K. Agnihotri, J.

By this petition, the Petitioner, who was working as Sr. Lecturer in the Education Department, seeks a writ in the nature of certiorari to quash the impugned order dated 26-9-1997 (Annexure P/12), whereby the resignation letter of the Petitioner dated 1-7-1997 was accepted with effect from 30-9-1997 and further, reinstatement of the Petitioner with full back wages and consequential benefits of promotion, pay revision etc. with promotion to the executive grade of E-2 with effect from 30-6-1997.

According to learned Counsel appearing for the Petitioner, being aggrieved by the letter dated 30-6-1997, whereby the Petitioner was superceded for promotion to E-2 grade, the Petitioner sent a letter dated 1-7-1997 to the Deputy General Manager (Town Administration), Town Administrative Building, Bhilai Steel Plant, Bhilai, which was under subject "three months notice for resignation with effect from 1-7-97". The Petitioner was thereafter summoned by the Managing Director, Shri Vikrant Gujral on 12-9-1997 for counseling. The Petitioner, thereafter, submitted one detailed letter to the then Managing Director, Shri Vikrant Gujral, on 12-9-1997 (Annexure

P/11) stating grievances of the Petitioner, without making any reference to the withdrawal of her letter dated 1-7-1997, notice for resignation. The letter of the Petitioner was accepted on 26-9-1997 (Annexure P/12) signed by the Manager (Pers-Exe) stating that "this issues with the approval of the Competent Authority". Feeling aggrieved, the Petitioner has filed this petition for the aforementioned reliefs.

Shri V.G. Tamaskar, learned Counsel appearing for the Petitioner would submit that the Respondent No. 4 i.e., Deputy General Manager (Town Administration) has no power to accept the resignation of the Petitioner as she belongs to grade. Secondly, the resignation tendered by the Petitioner was not unconditional and as such, it could not have been accepted. Thirdly, since the Petitioner was forced to resign, thus, the same could not have been accepted. Fourthly, the letter was addressed to the incompetent officer and such acceptance of the resignation letter was bad.

Per Contra, Shri Adil Minhaz, learned Counsel appearing for the Respondents would submit that the Petitioner was working as Sr. Lecturer at the relevant point of time. As per existing promotion policy, the eligibility criteria for the promotion from Grade E-1 to E-2 was four years along with 120 credit points in the performance appraisal of the concerned employee. The Petitioner was considered for promotion from E-1 to E-2 in June, 1997 along with other eligible candidates, but the Petitioner failed to secure the required 120 credit points, thus, she could not be promoted. The resignation letter dated 1-7-1997 addressed to the Deputy General Manager (Town Administration) was unconditional and was tendered on her own volition. The Petitioner was called by the Executive Director (P&A) and was advised to withdraw the resignation. After repeated advices made by the management, the Petitioner was determined to resign from the services and thus, she did not make any application for withdrawal of the resignation. The resignation was approved by the Executive Director (P&A), who is the competent authority for accepting the resignation of employees/executives upto E-4 level. The same is evident from the letter dated 26-9-1997 (Annexure P/12) stating that the resignation letter has been approved by the competent authority. Thus, there was no irregularity or perversity in the order dated 26-9-1997 after proper approval/acceptance by the proper competent authority. Learned Counsel further submits that under Declaration of Establishment Powers, even an officer of the rank of General Manager is authorized to accept the resignation of the executives upto the level of E-4. At the relevant point of time, the Executive Director (P&A) was the competent authority and the resignation letter was accepted by him. All the final dues of SEWA have been made over to the Petitioner and the Petitioner has accepted the same without any demur. No dues are outstanding as on date.

I have heard learned Counsel appearing for the parties, perused pleadings and documents thereto.

The main grievance of the Petitioner in this petition is acceptance of the resignation letter addressed to non-competent officer and thereafter order was also passed by the non-competent officer. Subsequent relief with regard to the grant of promotion and other benefits would come in the event, the Petitioner succeeds on the first point i.e., acceptance of her resignation. The Petitioner addressed a letter dated 1-7-1997 (Annexure P/10) to the Deputy General Manager (Town Administration) was as under:

To,
The D.G.M. (T.A.)
Town Administrative Building,
Bhilai Steel Plant, Bhilai.
Through: Proper channel.

Sub. Three months" notice for resignation with effect from 1-7-1997.

Sir,

Due to present management policy it is very difficult for me to continue my service further. Hence this letter may kindly be treated as my resignation with three months" notice period w.e.f. 17.97. Thanking you,

Yours faithfully,

Sd/-

(Smt. Renu Girdhar),
Senior Lecturer,
P. No. 57901,
Senior Secondary School,
Sector X, Bhilai

Forwarded Sd/-

Principal,
Sr. Section School,
Sector-10, BHILAI

Dated:1st July, 1997.

The aforesaid letter was referred to the higher authorities and the same was reached upto the Executive Director (P&A), competent officer as is clear from note sheet annexed as R/3 which is as under:

Sub: Resignation.

Smt. Renu Girdhar, P. No. 57901, Sr. Lecturer, Education deptt, TAD has submitted her resignation from the services of Bhilai Steel Plant vide letter dated 1.07.97., due to personal reasons and requested relieve her with effect from 30.09.97.

DGM (TA) has recommended her case for acceptance.

The particular of Smt. Renu Girdhar are as under:

Date of birth : 17.03.1943

Qualification : MA, B. Ed.

Date of joining : 02.12.1970

Posts held : 02.12.70 Asstt. Teacher

25.09.72 Lecturer

30.06.92 Sr. Lecturer (EO)

30-06-93 Sr. Lecturer (E-1)

Her case is cleared from Vigilance & Finance Angle.

In view of the above, the resignation of Smt. Renu Girdhar may be accepted with effect from 30.09.97.

May kindly see for approval.

Sd/-

(Nisha Soni)

Manager (Pers Exe)

Sr. Mgr. (Per-Exe)

ED(P&A)

sd/-

23.9.97

O.K.

Sd/-

25/9/97

Thus, it is evident that the letter dated 1-7-1997 was addressed to the Deputy General Manager (Town Administration) through Principal of the School and thereafter it was referred to the higher authorities upto the Executive Director (P&A), the competent authority for acceptance of resignation of an employee holding upto Grade E-4. After proper consideration, the Executive Director (P &A) approved acceptance of the resignation letter dated 1-7-1997 of the Petitioner. According to the Petitioner, the Petitioner was advised to withdraw her resignation letter, but the said advice fell on the deaf ears of the Petitioner and she failed to withdraw her application. Therefore, the competent authority had no choice, but to accept the resignation letter of the Petitioner. Admittedly, the Petitioner has not withdrawn her resignation letter any time before the same was accepted to be operative with effect from 30-9-1997. The contention of Shri V.G. Tamaskar, learned Counsel appearing for the Petitioner that, the letter was conditional has no merit as the letter dated 1-7-1997 contains the reasons for tendering resignation, but not

that the letter be accepted on certain conditions. Thus, it cannot be held that the resignation letter was unconditional. With regard to the promotion and other consequential reliefs which the Petitioner has prayed in this petition, cannot be considered in this petition as the Petitioner has tendered resignation and the resignation has already been accepted by the competent authority.

Learned Counsel appearing for the Petitioner relies on the decision of Hon"ble the Supreme Court in the matter of [Union of India \(UOI\) and Others Vs. Binod Bihari Behera](#), which is not applicable to the facts of the present case as the main issue in the said decision was re-enlistment of a member of Central Industrial Security Force after resignation in the light of Rule 58 of the Central Industrial Security Force Rules, 1969. The facts of the present case are entirely different.

In the matter of [Dr. Prabha Atri Vs. The State of U.P. and Others](#), relied upon by the Petitioner, the Petitioner therein was issued memo dated 5-1-1999 whereby pursuant thereof the Petitioner replied to her position verbally stating that on the date of incidence when she failed to attend the patient she was very sick and tired. While submitting response, the Petitioner stated as under:

Your letter is uncalled for and should be withdrawn. I have been working in this hospital since 10-5-1978 and have always worked in the best interest of the patients. It is tragic, instead of taking a lenient view of my sickness you have opted to punish me.

If the foregoing is not acceptable to you then I have no option left but to tender my resignation with immediate effect.

In the facts situation of the case, Hon"ble the Supreme Court held as under:

The letter cannot be construed, in our view, to convey any spontaneous intention to give up or relinquish her office accompanied by any act of relinquishment. To constitute a "resignation", it must be unconditional and with an intention to operate as such.

Applying the principle of law as laid down above to the facts of the case, it cannot be held that the letter of resignation was conditional as the Petitioner has stated reasons, but has not stated that in case the grievances of the Petitioner are redressed, the letter be treated as resignation. It is well settled principle that once an employee exercised his right to tender the resignation without withdrawing thereon before acceptance of the resignation, the order passed thereon, the letter of the resignation is final. The relationship of master and servant stands snapped (See - [J.K. Cotton Spinning and Weaving Mills Company Ltd. Vs. State of U.P. and Others](#),

In the matter of Punjab National Bank v. P.K. Mittal, 1990 SCC (L&S) 143 Hon"ble the Supreme Court held as under:

There are two ways of interpreting this clause. One is that the resignation of an employee from service being a voluntary act on the part of an employee, he is entitled to choose the date with effect from which his resignation would be effective and give a notice to the employer accordingly. The only restriction is that the proposed date should not be less than three months from the date on which the notice is given of the proposed resignation. On this interpretation, the letter dated 21-1-1986 sent by the employee fully complied with the terms of this clause. Though the letter was written in January 1986 the employee gave more than three clear months' notice and stated that he wished to resign with effect from 30-6-1986 and so the resignation would have become effective only on that date. The other interpretation is that, when an employee gives a notice of resignation, it becomes effective on the expiry of three months from the date thereof. On this interpretation, the Respondent's resignation would have taken effect on or about 21-4-1986 even though he had mentioned a letter date. In either view of the matter, the Respondent's resignation did not become effective till 21-4-1986 or 30-6-1986. It would have normally automatically taken effect on either of those dates as there is no provision for any acceptance or rejection of the resignation by the employer, as is to be found in other rules, such as the Government Services Conduct Rules.

The same ratio is subsequently upheld by the Supreme Court in the matter of [The Secretary, Technical Education, U.P. and Others Vs. Lalit Mohan Upadhyay and Another](#), wherein it was observed as under:

The general principle is that a government servant/or functionary who cannot, under the conditions of his service/or office, by his own unilateral act of tendering resignation, give up his service/or office normally the tender of resignation becomes effective and his service/or office tenure gets terminated when it is accepted by the competent authority.

Applying to the well settled principle of law as above stated to the facts of the case on hand is not a case of conditional resignation(sic) or the Petitioner has withdrawn the letter dated 1-7-1997 before the last date of expiry of notice or prior to acceptance of the letter.

The petition fails and is dismissed. No order as to costs.