

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.334 OF 2008

1. Smt. Rajeswari Dayal,
W/O Late M.C. Nandeesha,

2. Master Aditya Mudnakudu,
(being minor represented by
petitioner No.1),
S/O Late M.C. Nandeesha.

..... *Petitioners*

- *Vs* -

1. The Central Agricultural University,
Constituted under the Central Agricultural
University Act, 1992, having its headquarters at Lamphel,
Represented by its Registrar, Imphal, Manipur.

2. The Vice Chancellor,
Central Agricultural University as
Chairman of the Board,
Lamphel, Imphal, Manipur.

..... *Respondents*

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioners	:	Mr. D.K. Biswas, Advocate				
For the respondents	:	Mr. S. Deb, Sr. Advocate Mr. S. Dutta, Advocate				
Date of hearing	:	27.07.2015 & 01.08.2015				
Date of delivery of Judgment & Order	:	21.09.2015				
Whether Fit for Reporting	:	<table border="1"><tbody><tr><td>Yes</td><td>No</td></tr><tr><td>✓</td><td></td></tr></tbody></table>	Yes	No	✓	
Yes	No					
✓						

JUDGMENT & ORDER

Dr. M.C. Nandeesha, the original writ petitioner, since
deceased, the predecessor of the present petitioners, filed the

present writ petition under *Article 226* of the Constitution of India, wherein he challenged order dated 25.09.2008(*Annexure-3* to the writ petition) whereunder his resignation letter submitted on 18.09.2008(*Annexure-2* to the writ petition) was accepted and he also prayed for quashing his letter of resignation dated 18.09.2008.

The original writ petitioner, Dr. M.C. Nandeeshha died on 27.12.2012 during pendency of the writ petition and thereafter the present petitioners who are his wife and minor son respectively have been substituted as per order passed in CM Appl. No.88 of 2013. The writ petition was thereafter amended and the present petitioners in addition prayed for direction to pay retirement-cum-death benefit on the death of Dr. Nandeeshha, the original writ petitioner.

It appears that as per order dated 21.07.2011 passed in this writ petition the record of the case was reconstructed since the original record could not be traced out.

2. Heard learned counsel, Mr. D.K. Biswas for the petitioners and learned senior counsel, Mr. S. Deb, assisted by learned counsel, Mr. S. Dutta for the respondents.

3. It is an admitted position that the original writ petitioner, Dr. M.C. Nandeeshha(hereinafter mentioned as, '*petitioner*') was appointed as a Professor of Aquaculture under the respondents and was posted in the College of Fisheries at Lembucherra. A copy of the appointment letter dated 17.09.2001

has been annexed as *Annexure-R1* to the counter affidavit filed by the respondents.

4. It is, *inter alia* contended by the petitioner that he earned annoyance of the authority, firstly for making some representation to the Visitors of the University to enquire certain cases of corruption but his letter was termed as *frivolous* without making any investigation and the authority moved in a preconceived direction to punish the petitioner for which he filed a writ petition before the High Court vide WP(C) No.294 of 2007. Thereafter, the petitioner was again disturbed because of some corrupt practice of Dean of the University and the petitioner submitted a report to the authority expecting some appropriate action but instead the petitioner was served with a Memo. and on 12.09.2008 he was placed under suspension in contemplation of a departmental proceeding and he challenged the same by filing WP(C) No.301 of 2008, wherein an interim order was passed. Thereafter, on 18.09.2008 he submitted his resignation (*Annexure-2* to the writ petition) and the resignation was not accepted till 23.09.2008 but when the notice of the writ petition was served on 24.09.2008, the resignation was accepted by order dated 25.09.2008(*Annexure-3* to the writ petition). The petitioner was shocked by the letter of acceptance of resignation and thereafter by his letter dated 27.09.2008(*Annexure-4* to the writ petition) he made it clear that the acceptance of resignation must make a clean-chit as if there was no charge of misconduct against him and

otherwise the resignation of the petitioner should stand withdrawn and that he should be allowed to fight out the case in the Court of Law.

In response to his letter dated 27.09.2008, the Registrar of respondent No.2 by writing letter dated 29.09.2008(*Annexure-5* to the writ petition) informed him that the resignation, since already accepted there is no provision of withdrawal and so there was no question of withdrawal of the resignation. The petitioner, thereafter made a representation to the Chairman of the Board of respondent No.1 on 30.09.2008, a copy of which is marked as *Annexure-6* to the writ petition and the petitioner alleged that he did not receive any response of his representation dated 30.09.2008. It is also contended by the petitioner that in the meantime he was asked to vacate the quarters and he requested the authority to retain the quarters till the end of December, 2008 but his request was turned down by a letter dated 18.10.2008.

It is the case of the petitioner that the letter of resignation was not dealt with fairly and lawfully in accordance with the provisions of the Central Agricultural University Act, 1992(hereinafter mentioned as, the '*Act*') and the *Statutes* of the University(hereinafter mentioned as, *the 'Statute'*). The resignation was not accepted by a competent authority in accordance with the provisions of the *Statutes* and hence the acceptance of resignation

dated 25.09.2008 was *void* and the petitioner therefore prayed for quashing the same and since his letter of resignation was also not in accordance with the provisions as stipulated in Section 26 of the *Statute*, he prayed for quashing the letter of resignation also.

5. Respondents, *inter alia* contended that the Board of Management of the University, *i.e.* respondent No.1 in its meeting dated 05.11.2008 held at New Delhi took up the representation of the petitioner dated 30.09.2008 for consideration as *Agenda No.3* and after having considered the same the Board found no ground for revoking the decision of the Vice-Chancellor in accepting the resignation dated 25.09.2008 tendered by the petitioner on 18.09.2008 and further termination of the lien with the university. A copy of the decision of the Board of Management dated 05.11.2008 has been annexed as *Annexure-R4* to the counter affidavit.

It is contended by the respondents that the resignation was addressed to the Vice-Chancellor and the Vice-Chancellor, *i.e.* the respondent No.2 was the appointing authority of the petitioner and the Vice-Chancellor was having with the power and authority of accepting his resignation and there was nothing wrong in accepting the resignation by the Vice-Chancellor. It is also contended by the respondents that WP(C) No.294 of 2007 and WP(C) No.301 of 2008 have become *infructuous* in view of the submission of resignation of

the petitioner dated 18.09.2008 and the subsequent acceptance of the same by the Vice-Chancellor dated 25.09.2008.

The respondents further contended that the petitioner was a temporary employee of the University and his probation period was not cleared till the date of his submission of resignation. Therefore, the petitioner being a temporary employee the competent authority accepted his resignation on 25.09.2008 and therefore his representations dated 27.09.2008 and 30.09.2008 were all afterthoughts and those were filed with ulterior motive. Once the resignation was accepted by the competent authority, the petitioner has no case at all to stand. The respondents further contended that the resignation was accepted according to the provisions prescribed under the *Act* and the *Statute* and so the writ petition is liable to be dismissed.

6. Learned counsel, Mr. Biswas appearing for the petitioner made a strenuous argument firstly contending that the letter of resignation dated 18.09.2008 should not have been treated by the Vice-Chancellor as a letter of resignation of the petitioner since the Vice-Chancellor had no authority to consider a letter of resignation submitted by an academic staff. He has contended that where the power is given to do a certain thing in a certain manner that thing must be done in that way as prescribed and not otherwise. Referring to Section 26 of the *Statute* it is submitted by Mr. Biswas, learned counsel that the Board of Management of the

University is the only competent authority to accept a resignation and the resignation letter was also supposed to be addressed to the Board of Management. The acceptance of resignation by the Vice-Chancellor, *i.e.* the respondent No.2 was altogether wrong since the Vice-Chancellor had no power at all to accept resignation of any academic staff. He has also contended that the subsequent ratification by the Board cannot legalize the illegal action taken by the Vice-Chancellor. Learned counsel referred several case laws in support of his contention which shall be discussed later on.

7. Learned senior counsel, Mr. Deb appearing for the respondents submitted that the petitioner was a temporary employee. He was on probation. The Vice-Chancellor was the appointing authority and so the Vice-Chancellor had the authority to accept the resignation addressed to him. He has submitted that there was no question of ratification of the action of the Vice-Chancellor but since the petitioner made a representation to the Chairman of the Board, *i.e.* the representation dated 30.09.2008(*Annexure-6* to the writ petition) it was disposed of by the Board in its decision taken on 05.11.2008(*Annexure-R4* to the counter affidavit). Since the resignation was addressed to the appointing authority and it was accepted by the appointing authority who was having with requisite power, there was nothing illegal of the action taken by the respondents and the acceptance of resignation stands good.

8. Let us first have a glimpse to some of the relevant provisions.

Section 11 of the *Act* prescribes the provision regarding the appointment of the Vice-Chancellor. Sub-Sections (2) and (3) of Section 11 are very relevant which read as follows:

11.(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter;

Provided that if the authority concerned is of opinion that such action ought to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final;

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Board within three months from the date on which decision on such action is communicated to him and thereupon the Board may confirm, modify or reverse the action taken by the Vice-Chancellor."

The power and duties of Vice-Chancellor has been prescribed in Section 3 of the *Statute* which reads as follows:

"Power and duties of the Vice-Chancellor:

3(1) The Vice-Chancellor shall be ex-officio Chairman of the Board, the Academic Council, the Finance Committee, the Research Council and the Extension Education Council and shall in the absence of the Chancellor preside over the Convocation held for conferring degrees.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority of the University, but shall not be entitled to vote there at unless he is a member of such authority.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegates any such powers to such person or persons as he may deem fit.

(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Board, the Academic Council, the Research Council, the Extension Education Council and the Finance Committee."

Section 26 of the *Statute* deals with the removal of the employees by the University which reads as follows:

"Removal of employees of the University

26 (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or member of the academic staff and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee, may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Board the circumstances in which the order was made ;

Provided that the Board may, if it is of the opinion, that circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Board in respect of teacher and other academic staff and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or other employees as the case may be on grounds of misconduct.

(3) Save as aforesaid, the Board or the appointing authority as the case may be, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months notice or on payment of three months salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2)

or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made;

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statutes, a teacher/member of the academic staff or other employee may resign:-

(a) If he is a permanent employee, only after giving three months' notice in writing to the Board or the appointing authority, as the case may be, or by paying three month's salary in lieu thereof;

(b) If he is not a permanent employee, only after giving one month's notice in writing to the Board or, the appointing authority as the case may be, or by paying one month's salary in lieu thereof;

Provided that such resignation shall take effect only on the date from which the resignation is accepted by the Board or the appointing authority, as the case may be."

9. It is an admitted position that the petitioner was appointed by order dated 17.09.2001 issued by the respondent No.2, i.e. the Vice-Chancellor. It shows that he was appointed as a Professor in the Department of Aquaculture of the College of

Fisheries, Central Agricultural University, Lembucherra, Tripura temporarily until further orders. The terms and conditions of appointment *inter alia* stipulate that the appointment was temporary and can be terminated by giving one months' notice on either side and that the petitioner will be on probation for a period of two years from the date of joining which can be extended or curtailed at the decision of the competent authority. Failure to complete the period of probation to the satisfaction of the competent authority will render him liable to termination.

10. The respondents clearly contended that the petitioner was on probation till the date of his resignation and his service was not made permanent. In the writ petition the petitioner nowhere contended that he successfully completed the period of probation and his service was made regular or permanent by the authority. So the contention of the respondents that the petitioner was on probation at the time when he submitted his resignation and that his service was not made permanent has been established.

11. The petitioner was a Professor of the University having doctorate on his subject and must be considered a well-reasoned and well-thought person. He submitted his resignation to the Vice-Chancellor by writing letter dated 18.09.2008 which reads as follows:

"To
The Vice Chancellor
Central Agriculture University

Imphal, Manipur

18.09.08

Sub: Submission of resignation for the post of Professor of Aquaculture

Sir,

With reference to the above cited subject, I wish to bring to your kind notice that I have decided to resign from this University for the post of Professor of Aquaculture, which I have been holding since 14.12.2001, by the advise of my family elders and well wishers. I therefore tender my resignation which may kindly be accepted by your kind self with effect from today, 18.9.08.

I need to stay in Agartala, up to December, 08 to complete the education of my child. I have been offering the two courses to III and IV year students. These courses are in mid way and will end in December, 08. If permitted, I wish to complete these courses as my professional obligation, in an honorary capacity and without any other administrative responsibilities in addition, as you are aware, I also have to submit the reports of the two ICAR projects, which are help up because of the non-settlement of bills. As all the accounts with the College, leaving aside the accounts portion to be settled by the College, I wish to complete the technical obligations on my part. We have completed most tasks, but need three-four days dedicated work to finish the reports in a professional way. I wish to complete all these as my professional obligations without seeking any financial benefits, but only requesting the basic facilities to be used for the work when needed.

However, I request your kind permission to stay in the quarter where I am staying at present and request this facility to be utilized may be like in a case where an Honorary Professor is allowed to avail such facilities. In case, I would abide by your kind decisions on these matters. Assuming that my resignation would be accepted by your kind self, I would plan my professional activities to keep myself engaged and also making myself available for the Honorary work I have indicated above to complete the professional tasks in the College by December.

I would be grateful, if your kind decision is conveyed to me as soon as possible by this week.

Yours faithfully

-sd-illegible

M.C. Nandeesa

Professor of Aquaculture

College of Fisheries Central Agricultural Universities

Lembucherra-799210, Agartala, Tripura

Copy submitted to

Dr. S.K. Jain, Chancellor, Central Agricultural University, 40, Surya Niketan, Vikas Marg Extension, New Delhi-110092

Dr. Mangala Rai, Secretary, DARE and Director General, ICAR, Krishi Bhavan, New Delhi-110001

Director of Instruction, Central Agricultural University, Imphal

Registrar, Central Agricultural University, Imphal

Dean, College of Fisheries, Central Agricultural University, Lembucherra-799210, Agartala, Tripura.”

A bare reading of the above letter makes it clear that the petitioner insisted acceptance of his resignation with effect from

the date he submitted it *i.e.* from 18.09.2008 itself, and further he consciously requested the Vice-Chancellor to allow him to retain the quarters where he was staying at the time of submission of his resignation. Therefore, it is clear that the petitioner did not submit the resignation letter on a sudden emotion or because of any other shock or mental agony. The letter of resignation was accepted by the Vice-Chancellor and the Registrar of the University communicated the acceptance by communicating impugned order dated 25.09.2008(*Annexure-3* to the writ petition) which reads as follows:

"CENTRAL AGRICULTURAL UNIVERSITY
IMPHAL :: MANIPUR

O R D E R

Imphal, the 25th September, 2008

No.CAU/Reg/248/PF/02/Vol-II/ Dr. M.C. Nandeesha, Professor of Aquaculture, College of Fisheries, Lembucherra, Tripura was placed on suspension vide office order No.CAU/Reg/248/PF/02/Vol-II/1130 dated 12th September, 2008 pending disciplinary enquiry against him. In the meantime, Dr. M.C. Nandeesha has tendered his resignation from the University services from 18th September, 2008.

After considering all the facts, the competent authority is pleased to accept the resignation of Dr. M.C. Nandeesha from the post of Professor of Aquaculture. His lien in the University has come to an end with the issuance of resignation acceptance order dated 25th September, 2008.

*(Prof. M. Perjit Singh)
Registrar*

Memo. No.CAU/Reg/248/PF/02/Vol-II/1239 Imphal, the 25th September, 2008."

12. Sub-Section (6) of Section 26 of the *Statute* which has been reproduced hereinbefore, deals with the matter of resignation of a teacher/member of academic staff. Sub-Section(6)(b) prescribes that a non-permanent employee may resign after giving one month's notice in writing to the Board or the appointing authority, as the case may be or by paying one month's salary in lieu thereof.

13. In the case at hand, the petitioner was a non-permanent employee and so he was supposed to submit his resignation after giving one month's notice in writing to the Board or to the appointing authority or after paying one month's salary in lieu thereof. Here the petitioner submitted his resignation on 18.09.2008 and insisted acceptance of the same at once, *i.e.* on the date of submitting the same itself. He did not give one month's notice and the respondents also waived it. He also did not deposit one month's salary in lieu of giving the notice and the respondents while accepting the resignation did not insist payment of one month's salary by the petitioner. If the respondents waived or did not insist the notice or payment of one month's salary the petitioner on that ground cannot say that the acceptance of resignation was wrong or illegal. The Vice-Chancellor was the appointing authority and so as per the *Statue* the Vice-Chancellor had the authority to accept the resignation. I cannot agree with the submission of

learned counsel, Mr. Biswas that the Vice-Chancellor had no authority to accept the resignation. Simply because the respondents did not insist payment of one month's salary or one month's notice, which the respondents waived, the process of acceptance of resignation cannot be said to be in violation of the provisions of the *Act* or the *Statute*. Section 11(3) of the *Act* prescribes that the Vice-Chancellor if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under the *Act* and shall report to such authority the action taken by him on such matter. The petitioner was appointed by the Vice-Chancellor and so the petitioner rightly addressed the resignation letter as a temporary employee to the Vice-Chancellor and the Vice-Chancellor being the appointing authority waiving one month's notice and/or payment of one month's salary accepted the same on 25.09.2008 and thereafter in response to the representation of the petitioner dated 27.09.2008 the Vice-Chancellor through the Registrar of the University informed the petitioner that the resignation once accepted cannot be withdrawn. I therefore find nothing to say that the Vice-Chancellor acted beyond the power prescribed under the *Act* and *Statute* and also I find nothing to hold that the acceptance of resignation was beyond the authority of the Vice-Chancellor.

14. On the point of *locus-paenitentia* learned counsel, Mr. Biswas has referred several case laws.

The first case is of ***Raj Kumar v. Union of India*** reported in ***AIR 1969 SC 180***. In para 5 of the judgment the apex Court has held:

"5. Our attention was invited to a judgment of this Court in State of Punjab v. Amar Singh Harika, AIR 1968 SC 1313 in which it was held that an order of dismissal passed by an authority and kept on its file without communicating it to the officer concerned or otherwise publishing it did not take effect as from the date on which the order was actually written out by the said authority; such an order could only be effective after it was communicated to the officer concerned or was otherwise published. The principle of that case has no application here. Termination of employment by order passed by the Government does not become effective until the order is intimated to the employee. But where a public servant has invited by his letter of resignation determination of his employment, his services normally stand terminated from the date on which the letter of resignation is accepted by the appropriate authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the public servant to withdraw his resignation after it is accepted by the appropriate authority. Till the resignation is accepted by the appropriate authority in consonance with the rules governing the acceptance, the public servant concerned has locus paenitentiae but not thereafter. Undue delay in intimating to the public servant concerned the action taken on the letter of resignation may justify an inference that resignation has not been accepted. In the present case the resignation was accepted within a short time after it was received by

the Government of India. Apparently the State of Rajasthan did not immediately implement the order, and relieve the appellant of his duties, but the appellant cannot profit by the delay in intimating acceptance or in relieving him of his duties.

This decision cannot help the petitioner since the petitioner prayed for withdrawal of resignation only after the resignation was accepted. Mr. Biswas, learned counsel has submitted that the resignation was not accepted according to the rules governing the acceptance but that submission has not been accepted since it is already held that the Vice-Chancellor has got the authority to accept the resignation and the Vice-Chancellor waived the service of one month's notice or that of payment of one month's salary in advance and because of such waiving of the notice and/or payment of one month's salary the action taken by the Vice-Chancellor cannot be termed as violative of the rules.

The decision of the Court of Judicial Commissioner, Goa, Daman and Diu in the case of ***Dr. Rajnikant M. Jariwala of Daman v. The Secretary (Health) Govt. of Goa, Daman and Diu & Ors.*** reported in **1976 SLJ 666** is on a different context. In that case resignation was supposed to be addressed to the Lt. Governor but it was addressed to the Secretary and the Judicial Commission held that the acceptance of resignation was not according to rules and so it was a *nullity*.

This ratio is not applicable in the present case since here the appointing authority was the Vice-Chancellor and the

resignation was addressed to the appointing authority, *i.e.* the Vice-Chancellor who has accepted it.

In the case of ***Hukumat Rai v. State of Gujarat*** reported in ***1982 Lab.I.C. 1386***, of the Gujarat High Court the resignation was withdrawn before it was actually accepted by the competent authority. The ratio of that decision therefore cannot be applied in the present case.

The fact of the case of ***K.L.E. Society v. Dr. R.R. Patil*** reported in ***(2002) 5 SCC 278*** is completely on a different context and in my considered opinion it has been wrongly cited in the present case.

In the case of ***Srikantha S.M. v. Bharath Earth Movers Ltd.*** reported in ***(2005) 8 SCC 314*** the employee submitted his resignation and sought to be relieved as per rules. The employer accepted the resignation on the same day and directed him to be relieved with immediate effect. But on the same day casual leave was granted for a certain period(05.01.1993 to 13.01.1993) and during the period of casual leave, *i.e.* on 08.01.1993 the employee submitted application seeking withdrawal of resignation and in that case it was held that the employee remained in service up to the date leave was granted to him. The fact of that case is identically different to that of the fact of the present case and hence the ratio cannot be applied in this case.

Referring the case of **Marathwada University v. Seshrao Balwant Rao Chavan** reported in **(1989) 3 SCC 132**, learned counsel, Mr. Biswas submitted that subsequent ratification of an illegal action cannot make the action good and he intended to say that the Board of Management's decision dated 05.11.2008 cannot make the action taken by the Vice-Chancellor as legal.

15. The decision of the Board of Management(*Annexure-R4* to the counter affidavit) came in the context of representation of the petitioner dated 30.09.2008(*Annexure-6*). The Vice-Chancellor never referred his action to the Board of Management for ratification. Since the Vice Chancellor was the competent authority and he was the appointing authority of the petitioner he was not required to send the resignation letter to the Board of Management for acceptance. Here the Board of Management only disposed the application of the petitioner dated 30.09.2008 and held that the acceptance of resignation by the Vice-Chancellor was appropriate and the Board clearly observed that it found no merit in the application of Dr. Nandeeshra and unanimously decided to reject his application. So the ratio of the decision referred by learned counsel, Mr. Biswas is not in any aid of the petitioner's case.

16. In the case of **Union of Inida v. Gopal Chandra Misra** reported in **(1978) 2 SCC 301**, a Judge of the High Court submitted his resignation to be given effect on a future date and before that date he revoked the resignation. The Supreme Court has held that in the absence of a provision in the Constitution

prohibiting withdrawal, an intimation to resign from a future date can be withdrawn at any time before it operates to terminate the employment or the connection of the resignor with his office. That decision also cannot help the petitioner in the facts and circumstances of the case.

The case of ***North Zone Cultural Centre v. Vedpathi Dinesh Kumar*** reported in ***(2003) 5 SCC 455*** also cannot help the case of the petitioner since in that case the resignation submitted by the employee was already accepted but the communication was not made and the communication was made later on before which the employee submitted application withdrawing resignation and the apex Court has held that non-communication of the acceptance does not make the resignation inoperative provided there is in fact an acceptance before the withdrawal.

The fact of the case of ***Union of India v. Hitender Kumar Soni*** reported in ***(2014) 13 SCC 204*** is clearly distinguishable to that of the fact of the present case at hand and so the ratio of that decision cannot help the case of the petitioner.

17. The prayer of the petitioner to quash the order of acceptance dated 25.09.2008(*Annexure-3*) and further prayer of quashing the letter of resignation dated 18.09.2008(*Annexure-2*), in view of the discussions made above are found to be devoid of any merit and hence stand rejected.

18. The petitioner was placed under suspension contemplating a disciplinary proceeding but no disciplinary proceeding was initiated against the petitioner by the authority. Rather the authority accepted the resignation of the petitioner and thereby relieved him from service. So there was nothing for the respondents to deny the service benefits to the petitioner till the date of acceptance of resignation. The resignation submitted by the petitioner was accepted admittedly on 25.09.2008 and whatever service benefits including pensionary benefits if any were available to the petitioner those should be given to the present petitioners.

Subject to the above observation the writ petition stands dismissed.

Parties to bear their own costs.

JUDGE