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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: December 03, 2015

+ **W.P.(C) 9435/2015**

SACHIN KUMAR Petitioner
Through: Mr. L.N. Anchal & Mr. A.K.
Kaushik, Advocates
versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Anurag Ahluwalia, Central
Government Standing Counsel for
respondent No.1-UI
Mr. Shivram, Advocate for
respondents No.2 to 5

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Non acceptance of withdrawal of resignation is assailed by petitioner in this writ petition.

On 9th January, 2012, petitioner had resigned from the post of Deputy Manager (Kuwait) while he was under employment of second respondent and the ground of resignation was 'personal reasons'. Petitioner had sought acceptance of resignation with immediate effect and wanted to be relieved by 16th January, 2012 after adjusting the balance leave against the notice period.

According to second respondent, petitioner's resignation was

accepted on 20th January, 2012 by relieving him w.e.f. 16th January, 2012, as sought by petitioner. For settlement of the outstanding dues, petitioner was advised to contact F & A Division of second respondent.

On 19th March, 2012 (*Annexure P-2*), petitioner had sought withdrawal of resignation. Vide letter of 17th April, 2012 (*Annexure P-3*), second respondent had issued Experience Certificate wherein the date of relieving was given as 16th January, 2012 but at the end of the letter, it was stated that this letter may be treated as relieving letter.

Petitioner claims to have represented to Chairman-cum-Managing Director of second respondent on 24th April, 2012 (*Annexure P-4*) for reconsideration of withdrawal of his resignation but according to petitioner, no response was received. Petitioner claims that even to the reminder of 1st January, 2014 (*Annexure P-5*) sent to second respondent, no response was received and then petitioner had submitted a Representation to the Minister concerned seeking reinstatement. But according to petitioner, no response was received.

Petitioner relies upon information obtained in March, 2014 under Right to Information Act by one-*Parveen Kumar* to show that the Communication of acceptance of resignation was never conveyed to petitioner. In August, 2014, petitioner had written to the Chairman-cum-Managing Director of the second respondent highlighting that he has been victimized but it was refuted by second respondent in September, 2014. Again in November, 2014, petitioner had sent a Representation to the concerned Minister requesting his reinstatement in service of second respondent, on which comments of respondent No.3 were sought in January, 2015 and in May, 2015, petitioner had sought information under

Right to Information Act regarding response to this application by the Minister concerned. In June, 2015, Central Information Commissioner (CIC) had directed that legal opinion obtained by second respondent be supplied to petitioner and it was accordingly supplied. The legal opinion (*Annexure P-16*) furnished to second respondent shows that the letter of acceptance of resignation was communicated to petitioner and that the relationship of employee-employer came to an end and so, it was opined that there was no justification to permit withdrawal of resignation.

During the course of hearing, respondent's counsel had also raised the plea of delay and laches but upon finding that petitioner had all along been obtaining information through Right to Information Act and corresponding with second respondent and the concerned Minister, I find that on the ground of delay and laches, this writ petition cannot be thrown out.

Upon hearing and on perusal of acceptance of resignation letter (*Annexure P-1*), application seeking withdrawal of resignation (*Annexure P-2*) and the material on record, I find that though it is the case of second respondent that resignation of petitioner was accepted on 20th January, 2012 (*Annexure P-1*) but question which falls for consideration is as to whether on which date and by which mode this acceptance of resignation (*Annexure P-1*) was conveyed to petitioner. In view of dictum of Apex Court in *North Zone Cultural Centre and Another v. Vedpathi Dinesh Kumar* (2003) 5 SCC 455, the question of communication of acceptance of resignation has to be considered in the light of the relevant applicable rules. Since the application for withdrawal of resignation has not been duly considered and decided in accordance with the applicable Rules and

Regulations, therefore, the appropriate course to adopt would be to direct the competent authority of second respondent to effectively decide petitioner's application for withdrawal of his resignation.

Learned counsel for respondent has produced record which apparently does not indicate that acceptance of resignation was conveyed to petitioner at any point of time. The application for withdrawal of resignation has not been effectively considered by second respondent the way it should have been done. This application is required to be considered by the CMD of second respondent. The communication of 17th March, 2012 (*Annexure P-3*) by Group General Manager of second respondent to petitioner simply talks of adjustment of the balance amount. It nowhere states that the withdrawal of resignation has been either accepted or declined by second respondent. Even Communication of 17th April, 2012 (*Annexure P-3*) does not talk of withdrawal of resignation, as sought by petitioner, which simply mentions the date of relieving.

Learned counsel for respondent also points out that after seeking relief from service w.e.f. 16th January, 2012 petitioner has been working elsewhere. In any case, this cannot be a ground to reject petitioner's application for withdrawal of resignation because petitioner cannot be expected to come on road and has to earn his livelihood for survival.

Since petitioner's application for withdrawal of his resignation has not been decided by second respondent, therefore, in the facts and circumstances of this case, it is deemed appropriate to direct second respondent to decide petitioner's application (*Annexure P-2*) for

withdrawal of resignation within a period of six weeks by passing a speaking order and to convey the fate of the Representation to petitioner within a week thereafter, so that petitioner may avail of the remedies, as available in the law, if need be.

To ensure compliance of this judgment, its copy be sent to second respondent forthwith.

With aforesaid directions, this petition is disposed of.

(SUNIL GAUR)
JUDGE

DECEMBER 03, 2015

r/s