

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 01.06.2016****CWP No.26297 of 2015 (O&M)**

Sahil Mahajan

...Petitioner

Vs.

Punjab State Civil Supplies Corporation Ltd. & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Angel Sharma, Advocate, for the petitioner.

Mr. Anil Sharma, Advocate, for the respondents.

1. *To be referred to the Reporters or not?*
2. *Whether the judgment should be reported in the Digest?*

RAJIV NARAIN RAINA, J. (ORAL)

On 04.02.2016, I passed the following ad interim order:

*"CM No.1466 of 2016**Allowed as prayed for.**CM No.1467 of 2016**Notice of the application to the non-applicants/ respondents. Mr. Anil Sharma accepts notice on behalf of PUNSUP and waives service on them.**The application is for stay of inquiry proceedings. The charge sheet was issued when the petitioner sought voluntary retirement and remitted 3 months advance salary to the department which was rejected and the period is now being treated as willful absence from duty.**Mr. Angel Sharma appearing for the petitioner submits that the petitioner was under no disability of charge sheet, contemplated charge sheet or any adverse record or any other ground on which the PUNSUP would have any valid reason to decline the request for resignation from service. Neither was the resignation letter worded in an offensive manner or imputed anything against any officer of the*

Government or the accepting authority which was unacceptable in language or content.

In the meantime, and as an interim measure, the inquiry proceedings be kept in abeyance till the next date of hearing.

List again on 16.3.2016.”

On the next date, the case was adjourned to await reply and to explore the possibility of an amicable settlement. The interim order was continued. On 04.05.2016, following order was passed:

“Mr. Sharma states that PUNSUP has no regular M.D. at the moment. Therefore, the previous order cannot be given effective consideration. He prays for and is granted time so that needful is done in the presence of the new M.D. as Government may appoint. However, in case before the next date the situation remains the same then it will not be an excuse for the respondents not to file reply on merits.

Adjourned to 01.06.2016.”

Today, a short reply has been filed by way of an affidavit of the Deputy General Manager (Legal & Arbitration) of the respondent-Corporation. It has been explained that the petitioner was transferred from District Office, Amritsar to District Office Tarn Taran vide order dated 10.04.2015. The petitioner was given charge on 10.04.2015 for the purchase of wheat for the financial year 2015-16 from Harike Mandi. However, it is averred that for reasons best known to the petitioner, he did not report for duty at Harike Mandi. The first charge was not enough thought the authority. In addition, he was given charge of Harike Storage Centre vide letter dated 13.04.2015, but instead of reporting for duty, he tendered a letter of resignation to the District Office vide letter dated 22.04.2015 along with a bankers draft representing three months' salary in lieu of notice period in compliance with rules. The resignation letter was not accepted for the reason

that the “procurement season was going on and at that point of time huge manpower is required to cope up with the workload”. It appears that the employer felt let down. In these circumstances, the petitioner was directed to report for duty, failing which disciplinary action would be initiated against him.

This to say the least is draconian exercise of power and amounts to enslavement when employee was prepared to forfeit right to pension since resignation is not in the nature of premature or voluntary retirement. It is a request for severance of relationship of employment. It is not the case canvassed by the respondent employer that the petitioner’s conduct was under scrutiny prior to submitting his resignation or disciplinary action was contemplated against him which may have furnished ground for refusal. If the petitioner took a conscious decision to resign from service then the reason assigned for denial of request that since the procurement season was going on and manpower was needed to meet the demands, therefore, the petitioner would have to slave it out at Harike Mandi. This reason is found by me to be wholly irrational and perverse while considering acceptance of resignation or its refusal. It is neither fair nor proper for the Corporation to bind him down before the case of the petitioner can be considered on the question of resignation. There is no reason why the petitioner’s resignation should not have been accepted once he complied with the terms of the appointment letter and tendered in advance three months salary in lieu of period of advance notice. To make matters more difficult for the petitioner, he was charge-sheeted for absence for the period after submitting resignation. The issuance of charge-sheet is in improper exercise of power and in abuse of authority. If the petitioner was not interested in the job anymore refusal to accept resignation would

tantamount to forced or bonded labour, which practice is universally condemned.

Consequently, the petition is allowed and the interim order staying the further proceedings is made absolute. As a corollary, the charge-sheet is quashed. The petitioner's resignation would be accepted forthwith and a letter in this regard will be issued to him in a day or two leaving him free to pursue his future career elsewhere with no strings attached.

01.06.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE