

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.1165 of 2015 (O&M)

Date of Decision : 26.5.2016

State of Haryana and others

....Appellants

Versus

Smt. Savitri Devi

....Respondent

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

....

Present: Mr.Sudeep Mahajan, Addl.A.G., Haryana
for the appellants.

Mr. Rajesh Sehgal, Advocate
for the respondent.

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MAHESH GROVER, J.

CM No.2465-LPA of 2015

For the reasons stated in the application, delay of 104
days in filing the present appeal is condoned.

C.M.stands allowed.

LPA No.1165 of 2015

This is an appeal directed against the judgment of the
learned Single Judge dated 10.3.2015.

Briefly stated the facts are that the respondent-employee
was working as SS Mistress with the appellants w.e.f. 18.12.2004.
Desirous of contesting the local elections she submitted her
resignation from the post on 13.3.2012. The elections took place in
April 2012 with the employee being unsuccessful. She then made a
request to withdraw her resignation on 19.4.2012 much prior to the

acceptance thereof by the respondents which took place on 1.5.2012 giving it effect from 13.3.2012, the date of submission of the prayer for resignation.

Learned counsel for the appellants with reference to the instructions which are on record as Annexure R-2 in the writ proceedings contends that an employee who left service to contest elections cannot seek re-appointment to the original service. He thus contends that these instructions even though a part of the writ proceedings were never dealt with by the learned Single Judge who proceeded on the general principles of law that a resignation once submitted can be withdrawn before it is accepted enabling the employee to continue with the original assignment in service.

The prayer is opposed by the learned counsel for the respondent-employee who contends that at no point of time she had left the service. The instructions envisage a situation where an employee has left the service to contest the elections implying thereby that the voluntary resignation has found acceptance with the employer. It is thus contended that having withdrawn the resignation on a date prior to its acceptance would entitle the appellant to regain her employment.

After hearing the learned counsel for the parties, we are of the opinion that there is no merit in the appeal. The instructions were strenuously relied upon by the appellants envisaging a situation of acceptance of resignation and extinguishment of the arrangement between the employee and the employer thereby debarring the

employee from seeking re-appointment. But if the arrangement continues in the wake of no action taken by the employer on the prayer for resignation which is withdrawn prior to acceptance, then it cannot be said that the employee had left the service. The letter of resignation would thus be seen to be an intention of the employee which has not found acceptance by the employer himself and before it did the employee chose to withdraw it.

We would thus find no reason to interfere with the judgment of the learned Single Judge who allowed the writ petition by placing reliance on various pronouncements of the Hon'ble Supreme Court and which lay down a principle that a resignation once submitted can be withdrawn before its acceptance. The instructions per se would have no impact for the reasons stated above.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

26.5.2016
dss

(SUDIP AHLUWALIA)
JUDGE