

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1290 OF 2014

Nilesh s/o Pandit Sonawane
Age: 36 Yrs., occu. Service,
R/o 66, Ganesh Colony,
Jalgaon, Dist. Jalgaon.

- PETITIONER

VERSUS

- 1) The State of Maharashtra
Through its Secretary,
Agriculture Department,
Mantralaya, Mumbai-32.
- 2) Mahatma Phule Agriculture
University, Rahuri,
Dist. Ahmednagar,
Through its Registrar.

- RESPONDENTS

Mr.Chandrakant K.Shinde, Advocate for Petitioner;
Mr.AS Shinde, AGP for Respondent No.1-State.
Mr.MN Navandar, Adv. For Respondent No.2.

**CORAM : T.V.NALAWADE &
SANGITRAO S.PATIL, JJ.**

DATE : 7th MARCH, 2017.

ORAL JUDGMENT (PER:- T.V.Nalawade, J.)

1) Rule. Rule made returnable forthwith. By consent, heard both sides for final disposal.

2) The petitioner is working as Dark Room Assistant with Respondent No.2-University. He has

made an application for the post of 'Assistant Superintendent', which is on the project of Central Government, viz. Krishi Vigyan Kendre. The petitioner was selected on this post and he was supposed to join the new duty within fifteen days from the date of his appointment, i.e. 17.11.2011.

. After receipt of the appointment order, the petitioner made an application to Respondent No.2 requesting to relieve him to enable him to join the new posting. It appears that the petitioner was specifically directed to tender his resignation which he gave on 29.11.2011.

3) Learned Counsel for Respondent No.2 submitted that the words 'technical resignation' are used in the resignation letter and it was not unconditional resignation and, therefore, the said resignation was not accepted by Respondent No.2.

4) There is one more letter of resignation dated 22.2.2012, wherein the petitioner has clearly mentioned that since he was resigning the post, he needs to be relieved from the present post as he wanted to join the new post.

5) There is a copy of Government Resolution dated 2.12.1997 containing the guidelines as regards acceptance of resignation of Government servant, which need to be followed, by the Government Corporation or a body of Government if resignation is tendered by an Government employee. These guidelines are very clear.

. Guideline No.2(A)(2) shows that even if some conditions are set out in the resignation, those need to be ignored and such resignation needs to be accepted. Further, guideline No.2(A)(5) mentions that if notice of thirty days is given in the resignation, then such an employee can be relieved after completion of said period and such period needs to be counted from the date when the resignation is tendered. Guideline No.2(A)(6) shows that if an employee does not give one month's notice, then, then basic pay needs to be recovered from such employee and he needs to be relieved immediately. Relevant date will be the date of tendering the resignation. In view of the aforesaid guidelines set out in the Government Resolution, it can be said that if there are no dues from the Government employee to the employer, then in such cases, he needs to be relieved

immediately if such an employees gives one month's salary.

6) The submissions made and the record, particularly, the correspondence made by Respondent No.2 with the petitioner and vice versa shows that there was misconception in the mind of the authority of Respondent No.2. The misconception was to the extent of showing incompetency on the part of the concerned authority. Due to such incompetency, the petitioner was not relieved within time and he could not join the new post. Even when the petitioner was expected to join the new post within fifteen days from 29.11.2011, till this date, he could not join the new posting due to incompetency of Respondent No.2, as he was not relieved.

7) In the present matter, the petitioner has challenged the order passed on the representation by the Vice Chancellor, dated 9.1.2014. This order shows that direction was given to the Registrar of the university to make scrutiny of the relevant matter and then issue order as regards the resignation and appointment to the post of Assistant

Superintendent.

8) The submissions made show that the post of Assistant Superintendent on the aforesaid project is still vacant. The submissions made further show that, after passing the order dated 9.1.2014 by the Vice Chancellor, till today, the petitioner is not relieved and his resignation of old post is not accepted. All these irregularities/things are surprising and these irregularities are committed in spite of there being directions by this court in Writ Petition No. 10790/2012 (Nilesh Pandit Sonawane Vs. Mahatma Phule Krishi Vidyapeeth, Rahuri) dated 24.9.2013.

9) In view of the aforesaid circumstance, this Court holds that specific direction now needs to be given against Respondent No.2 – University to see that the resignation of the petitioner is accepted immediately and further orders are made.

10) The learned Counsel for the petitioner submitted that the petitioner is ready to deposit one month's salary for getting relieving order

immediately. The petitioner is expected to deposit such amount **on or before 15th March, 2017.** After depositing the one month's salary by the petitioner within the stipulated period, the relieving order is to be issued to the petitioner, if no other amount is due from him and further orders are to be issued.

11) Rule is made absolute in the aforesaid terms. The petition is allowed and disposed of accordingly.

(SANGITRAO S.PATIL)
JUDGE

(T.V.NALAWADE)
JUDGE

bdv/