

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3579 of 1994 (O&M)
Date of Decision:-25.08.2017.

Viney Suri

.....Petitioner

Versus

Central Bank of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Arjun Partap Atma Ram, Advocate for the
petitioner.

Ms. Vanita Sapra Kataria, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

The petitioner while working as a Branch Manager in the respondent-Bank was subjected to disciplinary proceedings and it was concluded in imposing the penalty on 15.3.1993. Thereafter, petitioner has exhausted the remedy of appeal as well as revision. Before commencement of the inquiry, petitioner had submitted his resignation. The same was stalled by the respondents on the presumption and assumption that they are going to hold disciplinary proceedings. After conclusion of the disciplinary proceedings, petitioner's resignation was accepted on 31.03.1993. Thus, petitioner was aggrieved by the initiation of proceedings till review order passed by the reviewing authority in the disciplinary matter and further acceptance of resignation. On 08.03.2013, aforesaid writ petition was

allowed in part which reads as under:-

“The punishment order dated 15.03.1993 (P-15) qua charge No.4 is set aside and direction is given to the Bank to refund the amount of ₹ 23,078/- with 9% interest per annum from the date of recovery till the payment is made.

Accordingly, the writ petition is partly allowed.”

The petitioner feeling aggrieved by the non-consideration of acceptance of resignation, preferred a review application which was dismissed on 20.08.2013 in review application No.141 of 2013. Thereafter, he preferred appeal it was numbered as LPA No.1981 of 2013 decided on 19.10.2015 wherein following order has been passed:-

“We have heard counsel for the parties, perused the impugned orders as well as contents of the writ petition, and are satisfied that one of the primary points that arose for adjudication, but has not been decided, is the power of the respondents to accept resignation dated 24.06.1991 after it had been rejected on 12.09.1991. A perusal of the impugned orders reveals that this matter has neither been considered nor answered whether in favour of the appellant or in favour of the respondent. Consequently, without expressing any opinion as to the merits of the present controversy, we partly allow the appeal and remit the matter for consideration on a limited point namely the legality of acceptance of resignation, vide order dated 31.03.1993.

Disposed of accordingly.”

In view of the learned Single Judge's order read with the LPA

decision, question of acceptance of resignation is required to be decided.

Learned counsel for the petitioner submitted that petitioner submitted his resignation on 24.06.1991. The same was not accepted within a period of 3 months from the date of submission of resignation and petitioner has been informed on 12.09.1991 (Annexure P-7) that his resignation has not been accepted by the Management due to pending disposal of disciplinary action against him. It was submitted that for the purpose of acceptance of resignation dated 24.06.1991, petitioner had filed writ petition which was numbered as CWP No.10538 of 1992 and it was dismissed on 30.09.1992 since the respondents-Bank have taken the contention before this Court that petitioner's resignation was not addressed to the competent authority – Deputy General Manager. Further there was a proposal for conducting disciplinary proceedings. Learned counsel for the petitioner further submitted that as on the date of submission of resignation dated 24.06.1991, no charge sheet was filed and so also not within 3 months from the date of submission of resignation i.e. prior to 23.9.1991. Charge sheet was filed only on 17.8.1992. Therefore, in all fairness, resignation should have been accepted since no charge sheet was filed before expiry of three months from the date of submission of resignation. It was further submitted that acceptance of resignation on 31.3.1993 is not in order for the reasons that respondents had time for acceptance of resignation for 3 months only. Time limit stipulated under Regulation 20 was over on 23.9.1991. Consequently, before acting on petitioner's resignation dated 24.06.1991 in the month of March, 1993, petitioner should have been heard since from 24.06.1991 to 31.03.1993, new developments have taken place like filing of writ petition in respect of acceptance of resignation, imposition of penalty in the disciplinary proceedings etc. It was also submitted that

once the respondents have taken a contention before this Court stating that petitioner's resignation was not addressed to the competent authority – Deputy General Manager, in that event where was the question of acceptance of the very same resignation letter dated 24.6.1991 on 31.3.1993. Therefore, acceptance of resignation dated 31.3.1993 is liable to be set aside.

Per contra, learned counsel for the respondents vehemently resisted the petitioner's claim stating that respondent is a Bank institution. public money is involved and the allegations against the petitioner were relating to money transaction and it was proved in the inquiry and petitioner was penalized. Therefore, acceptance of resignation of the petitioner in the year 1991 was not in public interest to the extent that on 12.09.1991, petitioner has been informed by Annexure P-7 that due to pending disposal of the disciplinary action, resignation submitted by the petitioner cannot be accepted. It was further submitted that no doubt resignation application was addressed to an incompetent authority, however, acceptance of resignation on 31.03.1993 has been accepted by the competent authority. Therefore, the contention of the petitioner that it was not addressed to the competent authority contention do not survive since acceptance of resignation is by the competent authority on 31.03.1993.

Heard learned counsel for the parties.

The respondents in all fairness should have rejected petitioner's resignation or accepted before 3 months from 24.6.1991 i.e. prior to 23.9.1991. Whereas, communication has been made to the petitioner stating that resignation has not been accepted by the Management due to pending disposal of the disciplinary action against him. The respondents failed to

point out as on 12.9.1991 whether charge sheet has been filed or not. Undisputedly, charge sheet was filed on 17.8.1992. Therefore, rejection of the petitioner's resignation on the ground that pending disposal of disciplinary action, resignation cannot be accepted is contrary to the facts read with Regulation 20. Further resignation was the subject matter before this Court in CWP No.10538 of 1992 and it was dismissed on 30.09.1992. In other words, rejection of the petitioner's resignation was affirmed by this Court. In this background, acceptance of the resignation dated 24.06.1991 on 31.03.1993 is impermissible. In fact, it amounts to contempt of Court for the reasons that in CWP No.10538 of 1992, both the parties were bound by the decision dated 30.09.1992. If the respondents' intention was to accept the resignation of the petitioner, in that event respondents should have approached this Court for reviewing the order passed in CWP No.10538 of 1992. In the absence of reviewing the decision passed in CWP No.10538 of 1992, the action of the respondents dated 31.3.1993 in acceptance of resignation dated 24.6.1991 is highly arbitrary and illegal. Even respondents have not sought liberty to act on the petitioner's resignation after conclusion of disciplinary proceedings. Moreover, perusal of sub-regulation 2 of Regulation 20 provides for resignation and acceptance. One of the condition for non-acceptance of resignation is employee must be facing disciplinary proceedings. Therefore, rejection of the petitioner's resignation on an earlier occasion would be contrary to the sub-regulation 2 of Regulation 20 since as on 24.6.1991 so also on 12.9.1991, the date on which resignation application was submitted and communication has been made by the respondents to the extent that resignation cannot be accepted due to pending disposal of the disciplinary action when the charge sheet

itself was filed on 17.8.1992. The respondents action in acceptance of resignation on 31.3.1993 with reference to the resignation application dated 24.6.1991, number of developments have taken place between 1991 to 1993. Due to changed circumstances in the petitioner's service condition, in all fairness, the respondents should have given an opportunity as to whether petitioner still insist for acceptance of resignation or not before accepting the resignation dated 24.06.1991 on 31.03.1993. In view of the facts and circumstances, acceptance of resignation dated 31.03.1993 (Annexure P-18) is hereby set aside. Petitioner is entitled to all consequential monetary benefits. The same shall be calculated and disbursed within a period of 4 months from today.

Accordingly, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

August 25, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.