

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1316 of 2016

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Baban Singh, S/o Jag Narayan Singh, resident of village - Karmaini, P.S.-Kargahar,
District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Department of Education, Govt. of Bihar, Patna
3. Director, Primary Education, Bihar, Patna
4. District Education officer, Rohtas at Sasaram
5. District Programme officer (Establishment), Rohtas at Sasaram
6. Block Development officer, Kochas, District Rohtas at Sasaram
7. Block Education officer, Kochas, District Rohtas at Sasaram
8. Mukhiya, Gram Panchayat Raj, Dihra, District - Rohtas
9. Panchayat Secretary, Gram Panchayat Raj, Dihra, District – Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D. K. Sinha, Sr. Advocate Mr. Abhinay Raj, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7 Mr. Gopal Krishna, AC to GA-7

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 13-03-2018

Heard learned counsel for the petitioner and State.

The only issue involved in the present writ application is whether the petitioner can withdraw the letter of resignation before the acceptance or not.

From the pleading, it appears that the petitioner has tendered resignation on 09.07.2015 and before forwarding his case of resignation for approval, the petitioner has withdrawn the resignation tendered on 09.07.2015.



From perusal of Annexure-2, it appears that the petitioner has tendered resignation in view of the fact that his wife was unwell continuously and as such he was unable to serve in the school. There is no stipulation in the letter that the resignation shall be effect from a particular date and on such situation the letter of resignation is effective from the date of acceptance of resignation. The law is well settled that before acceptance of resignation, withdrawal of resignation is permissible, however, once the resignation is accepted, the resignation cannot be withdrawn. Reference in this connection may be made to the judgment of Apex Court in the case of **Raj Kumar vs. Union of India**, reported in **AIR 1969 SC 180** followed by series of judgment of the Apex Court.

In the instant case, before acceptance of the resignation of the petitioner vide Annexure-3, the petitioner has withdrawn his resignation vide letter dated 03.12.2015.

In view of the law laid down by the Apex Court in the case of **Raj Kumar (supra)**, the resignation tendered by the petitioner was withdrawn by the petitioner before its acceptance and as such the letter of resignation that ceases to exist after Annexure-3 and, as such, the respondents are required to place the petitioner in service and permit him to serve as Panchayat Teacher,



notwithstanding the resignation tendered by the petitioner (Annexure-2), which was subsequently withdrawn by the petitioner and consequential benefit should be extended to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.03.2018
Transmission Date	

