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

WRIT PETITION NO.107 OF 2013

Sau. Surekha Nivrutti Chaudhari ... PETITIONER

VERSUS

The State of Maharashtra & others ... RESPONDENTS

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Shri M.M. Bhokarikar, Advocate for petitioner
Mrs. D.S. Jape Ansingkar, A.G.P. for State
Shri C.R. Choudhari, Advocate for respondent Nos.2 to 4

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CORAM: T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.

DATED : 17th JANUARY, 2018.

ORAL ORDER :

1. The petition is filed for directions to respondents to allow the petitioner to join her service as Anganwadi Sevika. Both the sides are heard.

2. It is the contention of the petitioner that, due to the compulsion and force of her husband, she tendered her resignation of the aforesaid post on 31.7.2012 though she had worked as Anganwadi Sevika for 16 years. It is the contention that, subsequently, her husband drove her out of the matrimonial

house and she was required to take some steps. It is the contention that, after the aforesaid incident of driving her out of matrimonial house, she filed application with respondents on 1.10.2012 and requested them to allow her to withdraw the resignation, but she was not allowed to do so. Hence the petition.

3. Learned counsel for the petitioner drew the attention of this Court to Government Resolution of the State Government, issued by General Administration Department, dated 2.12.1997. He submitted that, the guidelines are issued by the State Government in this Government Resolution to all the Departments to take precautionary measures when resignation is tendered. He submitted that, those guidelines were not followed. He produced letter of appointment given to petitioner in the year 1996 and he drew the attention of this Court to Condition No.6 mentioned in the appointment letter.

4. In the appointment letter, there was a condition that if the petitioner wanted to resign the post, it was expected to send the resignation by registered post to Project Officer by giving one month's notice and after that, it will not be open to her to withdraw the resignation. Learned counsel submitted that, that mode was not used by the petitioner and so, it cannot be

said that the resignation was properly tendered or accepted.

5. The aforesaid submission made by the petitioner is not acceptable in law. The condition mentioned in the appointment letter was against the petitioner and it was not against the employer. As per the service rules, a Government employee is expected to give notice of 30 days if he wants to resign from the post. If the employee has urgency, liberty is there to the employee to tender the resignation and show readiness and willingness to deposit one month's basic pay. After that, the employer is expected to take decision on the resignation. If the employer is satisfied that there are no dues from the employee, no action is anticipated in respect of the service by the employer, it is open to the employer to accept the resignation if aforesaid procedure is followed. In the present matter, one month's basic pay was tendered as the salary of one month was already due on the date of the resignation and the second mode was accepted by the employer of accepting the resignation.

6. The submission that the petitioner had not tendered the resignation voluntarily is not accepted as the employer had no role in the incident of tendering the resignation. Whatever the dispute the petitioner had, was with her husband and not

with the employer and so, it cannot be said that the resignation was not voluntarily tendered. The letter of withdrawal was given on 1.10.2012 and the petition came to be filed on 23.11.2012 though it came to be registered in the year 2013. In view of these circumstances, this Court holds that no relief can be granted to the petitioner.

7. Learned counsel for the petitioner places reliance on some observations by learned Single Judge of this Court in **2017(2) ABR 274 (Narayan Dinbaji Jambhule Vs. Dr. Deorao Madguji Holi & ors.** The said observations are made by learned Single Judge with regard to the date on which the resignation which was tendered by the employee by giving 30 days notice becomes effective. Learned Single Judge observed that, only because 30 days period has expired and the employer has not informed about acceptance or rejection of the resignation, the employee cannot go with the presumption that he has resigned the post. There cannot be dispute about the same, but in the present matter there is no such point involved.

8. Learned counsel for the petitioner submitted that the resignation is not in the handwriting of the petitioner though she has signed the same. This circumstance cannot be considered against the employer as due to this circumstance, inference is

not available that there was compulsion or force for the petitioner to tender resignation.

9. Writ Petition is dismissed. The employer is expected to pay the dues like gratuity, provident fund to the petitioner as per rules.

(SUNIL K. KOTWAL) (T.V. NALAWADE)
JUDGE JUDGE

fmp/