

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 23.02.2018****CWP No.18610 of 2013**

Devi Singh

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jitender Nara, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

In this case interpretation of a resignation letter is involved. It is, therefore, reproduced in the beginning:

“Subject: For departmental approval for contesting the election of Sarpanch.

Sir,

It is submitted that I am working as Mali-cum-Chowkidar in Ganaur Sub Division falling under your goodself. I want to contest for the post of Sarpanch in the village. Therefore, kindly allow me as per departmental rules and my resignation be accepted, so that I may serve my village. I am attaching a draft for one month salary along with this application. I would be grateful to you.”

The petitioner had made his intention clear that he wanted to leave his job to contest for the post of Sarpanch of Gram Panchayat. He withdrew his resignation on 09.06.2010, which was accepted vide office order dated 22.06.2010. He wanted to be relieved forthwith affirming his intention by attaching a draft representing advance salary for one month. If

the petitioner was unsuccessful in the elections, he had already burnt his bridges with no fundamental right to return to the post of Mali-cum-Chowkidar in the Public Health Engineering Circle, Sonapat. He withdrew his resignation on 09.06.2010, which was accepted vide office order dated 22.06.2010.

Had his intention been otherwise, he could have tried to fix a date in future from which resignation should take effect but he did not. And that is why in the considered opinion of this Court the resignation was to be treated with immediate effect. If an order was passed accepting the resignation later, it does not amount to approval of waiver of the right of the Department to treat the resignation with immediate effect on the date of submission i.e.19.05.2010. Accordingly, the case of the petitioner does not fall in the general principle that resignation not accepted can be withdrawn at any time.

Moreover, there are policy instructions covering the subject appended with the written statement on the issue of reappointment of Government employees, who resigned from their posts to contest elections. The relevant extract from the policy circular dated 21.11.1996 issued by the Chief Secretary to Government Haryana, reads as follows:

“Subject: Reappointment of Government employees who resign their post to contest elections.

I am directed to refer to instructions issued vide Punjab Government Circular Letter No.3936-01-60/15056 dated 04.05.1960 on the subject cited above, conveying the policy decision of the Government for employee who leave Government service to take part in election would not be re-appointed to be original service thereafter. As ordinary citizens they will however be eligible for applying for jobs in

the Government, but they will not enjoy continuity of services from their previous employment.

It has been observed by the Government that these instructions are not being/followed strictly. I have been further directed to reiterate that the said instructions should be observed meticulously in letter and spirit in further by all appointing/controlling authorities.”

Besides, the petitioner was governed by the provisions of the Haryana Government Employees Conduct Rules, 1966, which prohibit a Government employee to take part in, subscribe in aid or assist in any other manner any political moment or activity, nor the employee can canvass or interfere or use his influence in connection with or take part in an election to any Legislative or Local Authority.

Thus, the right of the employee based on general principles to withdraw his resignation before acceptance is curtailed by the policy instructions dated 21.11.1996 and the 1966 Conduct Rules and there the prohibitions contained therein.

In view of the above, I find no warrant to interfere in the matter by issuing either a writ of certiorari setting aside the acceptance of the resignation letter or by issuing a mandamus directing reinstatement to service and would for the many reasons recorded above, decline the petition.

23.02.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>