

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1645

**RSA-3488-2007(O&M)
Date of decision:21.03.2018**

State of Haryana and others

... Appellants

Versus

Ram Kishan Mittal

.... Respondent

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

Present: Mr. Rohit Arya, AAG, Haryana.

Mr. Sanjay Mittal, Advocate for the respondent.

P.B. BAJANTHRI, J. (ORAL)

In the present appeal, grievance of the appellants is that respondent is not entitled to pension on account of resignation.

2. Respondent was appointed as J.B.T. Teacher on 23.10.1954. While working as such he had submitted notice of resignation on 24.05.1969. The resignation notice is stated to have been accepted. Consequently, there is seizure of relationship of employer and employee between the appellant and respondent. Trial court proceeded to hold that resignation of the respondent would be treated as voluntary retirement in view of non-communication of acceptance of resignation. As long as

respondent has not questioned whether appellant has acted upon the respondent's notice of resignation dated 24.05.1969 and acceptance of resignation is not communicated to the respondent consequently, it is deemed that respondent is entitled to benefit of pension. Undisputedly, respondent has not questioned the acceptance of resignation. Even assuming that acceptance of resignation was not communicated to the respondent, respondent has not taken any action either approaching the appellant so as to find out what action has been taken by the appellant in respect of notice of resignation dated 24.05.1969. Moreover, the suit for claiming pension was presented and the fact that he has rendered service for about 15 years he is not entitled to any pension in view of statutory provision namely Rule 5.32-A(a) of Punjab Civil Services Rules, Volume 2 Para 1 (as is applicable to State of Haryana). The said statutory provision has been interpreted by Division Bench of this court in the case of ***Ghanshyam Dass Rehlan versus State of Haryana and others*** reported in 2006(4) Law Herald 2866. In view of the aforesaid decision trial and appellate courts judgments dated 27.09.2006 and 12.01.2007 are set aside.

3. Appeal stands allowed.

21.03.2018

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No