

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 02.05.2018****CWP No.18122 of 2015 (O&M)**

Sunil Kumar

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sanjay Verma, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner belongs to the service of the District Consumer Disputes Redressal Forum, Jhajjar. He was a Stenographer. Vide Annex P-1, the State Information Commission, Haryana, Chandigarh invited applications for the post of Personal Assistant etc. from amongst the employees already working in the Departments of the Government to be filled by way of transfer. The Secretary, State Consumer Disputes Redressal Commission, Haryana, Panchkula forwarded the application of the petitioner to the State Information Commission, subject to the condition that on his selection in State Information Commission, he will resign from the post of Senior Scale Stenographer in District Forum, Jhajjar. After the petitioner had been appointed on transfer basis, the State Information Commission, Haryana addressed a letter to the Secretary, State Consumer Disputes Redressal Commission, Haryana, Panchkula requesting that the petitioner be

relieved to join new assignment, if the State Consumer Disputes Redressal Commission is agreeable to maintain his lien.

The State in its written statement has averred that while applying in the State Information Commission, the petitioner submitted an undertaking that in the event of his selection in the State Information Commission, Haryana, he will resign from the post of Stenographer, District Consumer Disputes Redressal Forum, Jhajjar. Such undertaking is annexed as Annex R-3/1. It is further averred that even with the resignation, the rights of the petitioner would not be adversely affected in view of Rule 4.19(b) of the Civil Services Rules, Volume II. Despite his resignation; which was only a technical resignation; the service rendered by the petitioner in the Judicial Department before joining in District Consumer Forum and the service rendered in the District Consumer Forum would be counted for all service benefits in his next department. The resignation was only sought with a view that if the petitioner maintains his lien in District Consumer Forum, his post cannot be considered to have fallen vacant and cannot be filled up. This forced vacancy would be detrimental to the interest of the administration on keeping a post unfilled only to await absorption in the transferee department.

I have heard learned counsel for the parties at considerable length and perused the record. In my considered view, the petitioner must be held down to his undertaking dated 07.08.2014 (Annex R-3/1) and, therefore, the question of maintaining a lien in the parent department has no legal value and is of no consequence.

The instances relied upon by the petitioner claiming parity with the administrative decisions in the cases of Ms. Nitu and Sanjay Narang with

orders at Annex P-11 & P-11/A are actually of no assistance to him as in those cases selection/appointment was of Section Officer. It was directed that their lien would be retained in District fora till the absorption in the new place of posting. Both these instances are of the year 2009. There has been no repetition in the department with respect to any other instance. Even the circumstances in which those decisions were taken are unknown and cannot be applied automatically to the case of the petitioner.

Per contra, the State has placed policy dated 10.04.2015 (Annex R-3/2) on record with the written statement in which the position explained is that in case selection and appointment is made by transfer from another department, by advertisement or circulation, no lien will be retained and if persons intend to proceed to the new assignment, they are to submit their resignation from the post in the lending department. In the same line is the case of Krishan Kumar, Judgment Writer of the State Consumer Disputes Redressal Commission, Haryana, Panchkula dealt with while forwarding his application vide communication dated 09.04.2014 (Annex R-3/4).

As a result of the above discussion, I find no sufficient merit in the prayer of the petitioner for quashing the order dated 28.11.2014 vide which the third respondent has refused to retain the lien of the petitioner and has not relieved him for joining as Personal Assistant in the State Information Commission, Haryana. Neither do I find a case for issuance of a writ of certiorari to quash the impugned order dated 11.05.2015 (Annex P-15) whereby the letter of appointment of the petitioner was ordered to be withdrawn because requisite permission with regard to retaining lien of the petitioner as Senior Scale Stenographer was not granted by the State Consumer Disputes Redressal Commission, Haryana. Moreover, no

prejudice has been caused to the petitioner by any action of the respondents nor have his rights been affected adversely as he continues in employment of District Consumer Disputes Redressal Forum, Jhajjar.

Consequently, the petition is dismissed.

02.05.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*