

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

107

CWP-9123-2014(O&M)
Date of decision:23.03.2018

Parmod Kumar

... Petitioner

Versus

The Presiding Officer and another

....Respondents

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

Present: Ms. Abha Rathore, Advocate for the petitioner.

Mr. Kul Bhushan Sharma, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

In the present writ petition, petitioner has challenged the award passed by the Labour court dated 02.08.2013 (Annexure-10).

2. Petitioner is stated to has been appointed as a Chowkidar in the month of January, 1993. It is alleged that he remained absent from 26.12.2007 onwards. Thereafter, he has resigned the post on 31.03.2008 and it was accepted on the same date while settling a sum of Rs.25,000 on 10.04.2008. Petitioner in this background raised a dispute before the labour court. Labour court passed award against the petitioner. Hence the present petition.

3. Learned counsel for the petitioner submitted that petitioner has not resigned the job on 31.03.2008. So also it is accepted on the same day shows that the respondents have managed to prepare resignation letter and signature for the reasons that petitioner is illiterate. It was also submitted

that such acceptance of resignation on the same day without asking the

petitioner as to why he is resigning having regard to the length of service rendered by him from 1993 to 2008. It was also pointed out that under Haryana School Education Rules, 2003 (for short 'Rules, 2003') there is provision relating to resignation namely Rule 104 which provides for 30 days time for the process acting on the resignation letter. Therefore, in hurriedly respondents have accepted resignation on the same day in order to get rid of petitioner's services from the respondent-School. These things have not been apprised by the labour court. Thus, labour court has erred in passing the award against the petitioner.

4. Per contra, learned counsel for the respondents vehemently contended that petitioner has not challenged the acceptance of resignation. On the other hand what has been challenged is relating to termination. Therefore, question of acceptance of resignation on the same day, would be arbitrary and illegal. When the petitioner has submitted his resignation and it was accepted by the competent authority therefore, disputing resignation letter and its acceptance may not be correct. It was also pointed out from Annexure P9 in the cross examination of the petitioner that he has denied the signatures even on the demand notice and claim statement. In view of this conduct of the petitioner, petitioner is not entitled to any relief and there is no infirmity in the award passed by the labour court dated 02.08.2013.

5. Heard the learned counsel for the parties.

6. Crux of the matter in the present petition is whether petitioner has submitted resignation or not? Assuming that petitioner had submitted his resignation, it was bounden duty of the respondents to comply Rule 104 of the Rules, 2003 to process resignation letter for 30 days. Whereas, in the present petition resignation letter is dated 31.03.2008 and it was accepted on

the same day and it is in violation of Rule 104 of Rules 2003. On this score itself acceptance of resignation is void decision of the respondents. Moreover, petitioner has rendered services from 1993 to 2008. If he had submitted his resignation on 31.03.2008 as a model employer, respondents should have made necessary efforts to ask the petitioner as to why is he resigning the post to the extent of finding out whether it was under any coercive, depression or something else. The action of the respondent in accepting the resignation on the very same day reveals that respondents intention was to get rid of the petitioner.

7. In view of these facts and circumstances, labour court has not appreciated the statutory provision as well as conduct of the respondents. Therefore, award passed by the labour court is set aside. Consequently, petitioner is entitled for reinstatement without back wages in view of fact that he remained absent from 26.12.2007 and there is no material to show that he has made necessary efforts to report for duty. Petitioner is also entitled to consequential and service benefits.

With the above observation, CWP stands allowed.

23.03.2018

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No