

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

LPA No. 1760 of 2018 (O&M)

Date of Decision: 15.11.2018

Harjit Singh

.....Appellant

versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Kapil Kakkar, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra court appeal filed under Clause X of the Letters Patent filed by the appellant-petitioner is directed against the judgment and order dated 06.09.2018 passed by the learned Single Judge dismissing the writ petition challenging the order dated 28.07.2013 accepting his resignation from service.

2. Undisputed facts are that the appellant-petitioner while serving as Math teacher in the Department of Secondary Education, Punjab was allowed Ex-India leave from 01.06.2013 to 15.06.2013 to visit Canada. Leave was granted subject to giving his undertaking/declaration that in case he fails to join his duties after expiry of the period of leave, the request may be termed as resignation from service. It is not in dispute that the said undertaking/declaration was submitted by the appellant-petitioner with the authorities on 23.05.2013 before availing the leave.

3. Concededly after the expiry of period of leave, the appellant-petitioner did not report back for service and in accordance with his undertaking an order dated 23.07.2013 was passed accepting his resignation from service. The writ petition was filed on the allegations that the

appellant-petitioner sent an e-mail dated 17.09.2013 requesting that his resignation may not be accepted and he may be allowed to join back his duties.

4. There is no dispute about the fact that the said e-mail was sent from Canada. Equally undisputed is the fact that the appellant-petitioner never presented himself to join his service. It is well settled principle of law that the resignation before it is accepted can be withdrawn. In the case in hand, the resignation tendered by the appellant-petitioner was accepted on 23.07.2013 as per his undertaking submitted on 23.05.2013 before he proceeded on Ex-India leave. Once the resignation has been accepted, the intimation sent by the appellant-petitioner on 17.09.2013 withdrawing his resignation was of no avail. Even otherwise as a fact he never came to India from Canada to present himself for joining his duties.

5. Apart from merits, the acceptance of the resignation in 2013 has been challenged in 2018 after about 5 years without any explanation for the delay and latches.

6. In view of the above facts and discussion, we do not find any infirmity in the judgment of the learned Single Judge dismissing the writ petition which may require any interference.

The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

15.11.2018
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√