

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 11680 OF 2018

Sandeep Kumar Shym Sunder Mandal ...Petitioner

Versus

The Central Bank of India  
Through Chairman and Managing Director  
and Anr. ...Respondents

Mr. S.A. Deshpande, Advocate for Petitioner  
Mr. S.V. Warad, Advocate for Respondent Nos. 1 to 3

**CORAM : S. V. GANGAPURWALA AND  
A. M. DHAVAL, JJ.**

**DATE : 30<sup>th</sup> APRIL, 2019**

**ORAL ORDER:**

1. The petitioner was employee of the respondent-bank. The petitioner joined with the respondent-bank on 29.01.2011. On or about 1<sup>st</sup> October, 2016, the petitioner tendered his resignation from the post of Sr. Manager. In the said resignation letter, it was stated that he is willing to serve the full notice period. The petitioner offered to tender his resignation w.e.f. 03.10.2016. On 13.07.2017, petitioner communicated to the respondent-bank that he wants to continue to serve with the respondent bank and further communicated that his resignation may be treated as cancelled and that he be given opportunity to continue in the service. The

respondent-bank declined the request of the petitioner. Aggrieved thereby, the present Writ Petition.

2. Mr. Deshpande, the learned Counsel for the petitioner submits that as per Regulation 20 governing the recruitment, the person who has tendered his resignation, can withdraw the resignation even after acceptance, but before he is actually relieved from service. In the present matter, the petitioner was not relieved from service. Though the petitioner submitted his resignation on 1st October, 2016, he continued in service and on 16.04.2017, he was granted leave up to 12.07.2017 and on 13.07.2017, the petitioner made a request that he be allowed to continue to serve the Institution. The learned Counsel submits that at no material point of time, the respondent-bank served the order relieving the petitioner from service. In absence of any order relieving the petitioner from service, the petitioner is entitled to continue his service and has got legal right to withdraw the resignation. The said aspect has not been considered by the respondents. The learned Counsel relies on the Judgment of the Division Bench of this Court in a case of **Rakesh Rai Vs. National Aviation Company of India & Ors. reported in 2014 (1) Mh.L.J.18** and submits that the petitioner has right to withdraw the resignation. The learned Counsel further submits that the acceptance of resignation was conditional acceptance of resignation and in view of that, the acceptance of resignation was no

acceptance in the eyes of law. Mr. Deshpande also relies on the Judgment of the Apex Court in the matter of ***Power Finance Corporation Ltd. Vs. Pramod Kumar Bhatiya reported in (1997) 3 SCT 354(SC)***.

3. Mr. Warad, the learned Counsel for the respondent Nos. 1 to 3 submits that the petitioner is relieved from service w.e.f. 1st June, 2017. The petitioner is paid salary up to 31st May, 2017. The relieving order specifically states the same. According to the learned Counsel, once the petitioner is relieved from service, the petitioner does not have right to withdraw the resignation. The learned Counsel relies on the Judgment of the Apex Court in a case of ***Tek Chand Vs. Dile Ram reported in AIR 2001 SC 905***, so also another Judgment of the Apex Court in a case of ***Shambhu Murari Sinha Vs. Project and Development India Ltd. reported in 2002 (3) SCC 437***.

4. The following factual matrix is undisputed :-

(i) The petitioner tendered his resignation on 1st October, 2016 w.e.f. 3rd October, 2016.

(ii) The resignation letter was accepted on 4<sup>th</sup> March, 2017 by the respondent-bank.

(iii) The petitioner gave an application for withdrawal of the resignation on 13.07.2017.

5. The point of dispute is whether the petitioner is entitled to withdraw the resignation on 13.07.2017.

6. The respondent has placed on record the order of acceptance of notice of resignation. In the order accepting the resignation, it is clearly said that the petitioner be relieved immediately. The Head Office on 31st May, 2017, has directed that the petitioner be relieved from 1st June, 2017.

7. The gravamen of the petitioner's contention is that the notice relieving him from service is never served upon him.

8. We would have accepted the contention of the petitioner, however, considering the letter dated 13.07.2017 given by the petitioner, it is clear that the petitioner was having knowledge of the order relieving him from service with effect from 1st June, 2017. The text of the letter dated 13.07.2017 withdrawing the resignation is reproduced as under :-

To,  
The General Manager,  
Human Resource Department,  
Central Office, Nariman Point,  
Mumbai.

Through Proper Chanel

Ref. 1)CO/HRD/VR/2016-17/2012 DATED 04/03/2017  
2) ZO/HRD/2016-17/1208 DATED 07/03/2017 &  
3) RO/HRD/2017-18/271 DATED 31/05/2017

Respected Sir,

Respectfully, I want to submit that due to unavoidable family circumstances, I had submitted my resignation on dated 03/10/2016, which was accepted by the bank, for which I am very much thankful to the bank. Due to family problem, I suffered a lot mentally and underwent deep mental depression. During these periods, I was also under medical treatment/supervision. Now, the family problem has been solved and I am feeling better. I want to continue to serve my great institution with same zeal and zest as I was doing earlier.

I, therefore, request your honour to treat my resignation as cancel and give me an opportunity to continue my service.

I hope to get a favourable response from your august hand, Sir.

(Sandeep Kumar)  
PF No. 85953  
Designation: Sr. Manager  
Date: 13/07/2017

9. Perusal of the aforesaid communication by the petitioner, it is manifest that the petitioner has referred to the letters directing that the petitioner be relieved w.e.f. 1st June, 2017. It also appears to be a matter of fact that the petitioner is paid salary up to 31st May, 2017, and thereafter, is not allowed to work. Even otherwise, the petitioner was on leave from 16.04.2017 up to 12th July, 2017. There was no occasion for the petitioner to function during the said period. The fact that the petitioner has referred to the letter relieving him from service itself is sufficient to observe that the petitioner was

having knowledge of the communication that he stands relieved from service from 1st June, 2017. Regulation 20 governing the relationship of the parties clearly states that the resignation of an officer cannot be accepted with immediate effect waiving/reducing the notice period unless otherwise requested for by him specifically as per law as he can withdraw his resignation even after such acceptance offered by the bank at any time but before he is actually relieved from service.

10. The petitioner is relieved from service from 1st June, 2017 and the letter is given by the petitioner withdrawing the resignation on 13th July, 2017 much after the petitioner was relieved from service.

11. In light of the above, it will not be possible to accept the contention of the petitioner.

12. The Writ Petition as such disposed of. No costs.

**[ A. M. DHAVALA ]**  
**JUDGE**

**[ S. V. GANGAPURWALA ]**  
**JUDGE**

mta

