

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CWP No.16649 of 2015 (O&M)
Date of decision: 14.10.2019

Ashok Kumar

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ishpuneet Singh, Advocate
for the petitioner.

Mr. Dheeraj Jain, Advocate
for the respondent-UI.

ARUN MONGA, J. (ORAL)

1. Inter alia, issuance of a writ in the nature of certiorari has been sought by the petitioner seeking quashing of impugned order dated 12.05.2014 (Annexure P-1) whereby resignation of the petitioner from service was accepted. Quashing of an order dated 17.03.2015 (Annexure P-5) has also been sought whereby the Deputy Inspector General of Police cancelled the order dated 09.08.2014 (Annexure P-3) vide which the Commandant after due approval of the competent authority had allowed the request of petitioner for withdrawal of his resignation letter.

2. I have heard the rival contentions of learned counsel for the parties and perused the pleadings along with the relevant record appended thereto. The writ petition deserves to be allowed for the reasons stated hereinafter.

3. I am of the opinion that the case of the petitioner is covered by

a Division Bench judgment rendered by Delhi High Court in case titled 'Deepak Vs. Union of India and others' passed in CWP No.5789 of 2016 (Annexure P-8). Pradeep Nandrajog, J. (as his Lordship then was) speaking for the Division Bench stated thus:-

“2. Successfully completing the selection process for being appointed as a Constable in CRPF the petitioner was offered appointment as a Constable (GD) on December 13, 2014. While undergoing training, petitioner claims that under an impulse of depression occasioned by domestic responsibilities; illness of his old aged parents he submitted request for voluntary resignation on February 14, 2015 which was accepted by the competent authority on February 16, 2015 resulting in petitioner being discharged from service with effect from February 16, 2015.

3. Reaching his native place the petitioner claims having realized that he ought not to have acted in an impulse and thus submitted an application on March 03, 2015 withdrawing the resignation and praying to be reinstated in service. The petitioner apologises for his impulsive action.

4. The request by the petitioner was rejected on March 16, 2015 on the plea that there is no provision permitting a force personnel to rejoin the force after having resigned from service.

5. Petitioner pointed out that as per Rule 26(4) of the CCS (Pension) Rules, 1972 the competent authority can permit a government servant to withdraw the resignation on the condition the government servant shows that the resignation was the result of some compelling reasons which did not involve any reflection on the integrity, efficiency or conduct of the government servant and the request to withdraw the resignation is the result of a material change in the circumstance.

6. The department persisted with the stand that there was no power to permit the petitioner to withdraw the resignation and his was conveyed to the petitioner on March 13, 2016.”

I am in respectful agreement with the view taken above.

That apart, on the very basic principles of service

jurisprudence, it is incomprehensible that once the competent authority i.e. Commandant Group CRPF had approved the withdrawal of the resignation letter of the petitioner as conveyed to him by his Commandant then as to how an Officer junior in rank i.e. Deputy Inspector General suo moto assumed powers to recall/cancel an order passed by his superior. On this short ground alone, impugned order is not sustainable in law and is liable to be set aside. Be that as it may, the case of the petitioner is fully covered by the judgment, ibid, relied upon by him and with which I am in respectful agreement.

5. The writ petition is allowed with all consequential benefits. Impugned orders dated 12.05.2014 (Annexure P-1) and dated 17.03.2015 (Annexure P-5) are quashed.

6. It is, however, made clear that from the period the petitioner remained out of service, he shall not be entitled for any salary and other benefits but the said period shall be reckoned for computing seniority and continuity of service.

14.10.2019

D.Bansal

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No