

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 5788 of 2018

Date of Decision: 16.05.2019

Jyoti

...Petitioner

Vs.

District and Sessions Judge, Rupnagar

...Respondent

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. R. Kartikeya, Advocate
for the petitioner.

Ms. Geeta Sharma, Advocate
for the respondent.

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner was appointed as Stenographer Grade-III in the Sessions Division, Rupnagar by order dated 12.08.2013. There were three conditions in the appointment letter which are of relevance to the controversy, that is, (i) that the appointment is purely on temporary basis and her services are liable to be terminated at any time without any notice and without assigning any reason thereof; (ii) In case, she submits her resignation from service, she would have to give one month's notice or in the alternative to deposit one month's salary in lieu thereof; and, (iii) she would be on probation for two years.

2. The petitioner applied through proper channel to compete for the post of Senior Scale Stenographer advertised in the High Court.

She was selected in open merit and offered appointment while she was

still on probation in the Sessions Division, Rupnagar. She accepted the offer and joined the services on the establishment of this Court. She was asked to submit her resignation or in the alternative to deposit one month's salary before she was relieved. It is not disputed that she had not served one month's advance notice to the competent authority in the Sessions Division, Rupnagar.

3. She had to deposit one month's salary in lieu of one month's notice amounting to a sum of Rs. 28, 904/- with the office of the Sessions Court at Rupnagar.

4. Following her appointment on the establishment of the High Court by way of direct recruitment, her employer has drastically changed from the service in the affairs of the Government of Punjab to the High Court with Hon'ble the Chief Justice as the Head of the Institution and the caretaker of the employees on the establishment of this Court with financial allocation by the Central Government.

5. For this reason, the judgment in Jagbir Singh and others Vs. District and Sessions Judge, Panchkula and another, CWP No. 5737 of 2016 delivered on 10.03.2017 relied upon by Mr. Kartikeya is inappropriate to his contention because that was a case of a person coming from a Sessions Division in Haryana; applying through proper channel and securing appointment in the Medical Education Department of the same State. Therefore, the Single Bench proceeded to hold that lien would be maintained in the previous office and the resignation

tendered to enable migration from one to the other department was only a 'technical' resignation and hence the petitioner could not be compelled to deposit money equivalent to one month's salary in lieu of one month's notice. The position here is very different with the Sessions Division insisting on deposit of money as per employment contract relying on the Haryana Government letter No. 287 Spl.E.II/L.80 (a) Hry dated 30.05.2013 which provides as follows:

“The applications for the appointment by transfer to other departments by way of advertisement or circulation of the employees working in the Subordinate Courts, may be forwarded with the express condition that in case, their selection is made, no lien will be retained and if they, intend to go, they are to submit resignation from their posts”.

6. Resignation in the present case would cause complete severance with the employment under the Sessions Division where the petitioner was still on probation and had not become a regular hand holding a public post as a matter of right.

7. In these circumstances, the argument of Mr. Kartikeya based on the plea of technical resignation and therefore right to benefits of previous service added on and resultant waiver of deposit does not appear to hold good in a case of a sea change in the status of employment on account of the employers being entirely different with

no rule to bridge the gap. Hence, I find hardly any merit in this petition worth interfering in writ jurisdiction by way of certiorari and mandamus. I find no apparent error committed by the authorities calling upon the petitioner to deposit one month's salary as required by the latter of appointment to pave the way for acceptance of resignation by the Sessions Judge before being relieved from previous service to join on the post of Senior Scale Stenographer in the High Court establishment as a direct recruit.

8. For what has been said before, there is no merit found in the petition warranting intervention and the same is hereby dismissed. Refund of money deposited is refused and stands forfeited.

(RAJIV NARAIN RAINA)
JUDGE

16.05.2019

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Whether speaking/reasoned: Yes
Whether reportable: Yes/No