

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

107

Regular Second Appeal No.5670 of 2018
Date of Decision: November 14th, 2019

Jaspal Singh

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Saurabh Arora, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 13.10.2015 passed by the Civil Judge (Junior Division), Patiala, whereby the suit for declaration preferred by the appellant-plaintiff to the effect that the order dated 19.04.1994 passed by the Senior Superintendent of Police, Ropar, whereby his resignation dated 15.04.1994 was accepted, order dated 04.07.1995 whereby the representation dated 19.02.1995 submitted by the petitioner for withdrawal of his resignation has been rejected by the Director General of Police, Punjab, order dated 14.01.1998 whereby his appeal was rejected by the Secretary to Government of Punjab, Ministry of Home Affairs, with a further representation submitted to the Director General of Police, which was rejected on 04.12.2009, being illegal, unconstitutional and in violation of the statutory rules and regulations, with a further prayer for issuance of an injunction for reinstatement in service and grant of all consequential benefits including arrears with interest at the rate of 12% per annum, has been dismissed, appeal against which preferred by him has been dismissed by the Additional District Judge, Patiala, vide judgment dated 03.04.2018.

2. It is the contention of learned counsel for the appellant that the appellant was working as a Constable in the Punjab Police when he submitted his resignation on 15.04.1994 on the ground of his father's ill health and family problems. It was mentioned that because of this, he was not in a position to continue in service any more. The said resignation was accepted by the Superintendent of Police, Ropar, on 19.04.1994 (Exhibit D-4). He preferred an appeal dated 12.02.1997 (Exhibit D-7), which was rejected vide order dated 14.01.1998 (Exhibit D-8). His representation dated 19.02.1995 for withdrawal of resignation has been rejected by the Senior Superintendent of Police, Ropar, on 04.07.1995 (Exhibit D-6) and the appeal preferred by the appellant has also been rejected by the Secretary, Government of Punjab, on 14.01.1998. The Director General of Police has again rejected his representation on 04.12.2009 and it is after that the present suit has been preferred. Challenging these orders, counsel for the appellant-plaintiff asserts that the resignation which has been submitted by the appellant-plaintiff, was not voluntary, in fact, it was in the circumstances which led to his losing his mental balance because of which in those peculiar circumstances, he has submitted his resignation. The circumstances of the appellant-plaintiff being so, it cannot be said to be a voluntary resignation and, therefore, the acceptance of that resignation by the Superintendent of Police, Ropar, cannot be said to be justified, especially, when he had submitted an application for withdrawal of his resignation on 19.02.1995, which again has been rejected. His contention is that even the Appellate Authority has failed to appreciate the peculiar facts and circumstances and the pressure under which the appellant-plaintiff was when he had submitted his

resignation. He, thus, contends that the judgments and decree as passed by the Courts below rejecting the suit of the appellant-plaintiff are unsustainable and deserves to be set aside and the suit of the appellant-plaintiff decreed.

3. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the impugned judgments.

4. The evidence which has been led by the appellant-plaintiff would not indicate such a situation where either the appellant-plaintiff was under depression or was suffering from such type of illness which would throw some light on the aspect as is being sought to be projected by the counsel for the appellant with regard to the illness of the appellant-plaintiff and the non-voluntary nature of submission of the resignation. Merely because at a subsequent stage and that too beyond the period which is prescribed for recall of the representation for resignation, it cannot be said that the initial resignation which was submitted by the appellant-plaintiff, was not voluntary. Assuming there would have been some evidence on record which would substantiate what has been asserted by learned counsel for the appellant, the things may have been different but here in the absence of any evidence to support the assertion of the counsel for the appellant, the same cannot be accepted, especially in the light of the admission which has been made by the appellant-plaintiff in the cross-examination. He has admitted the factum that he had submitted the resignation voluntarily. Conveying of the order passed by the competent authority accepting his resignation leading to filing of his appeal has also been accepted.

The conclusion drawn by the Courts below that since he has preferred an

appeal, therefore, the plea that the order of acceptance of his resignation was not conveyed, cannot be accepted, appears to be fully justified. The rejection of the representation submitted by the appellant-plaintiff for withdrawal of the resignation also having been rejected in consonance with the statutory rules, cannot be faulted with. The competence of the authority accepting the resignation initially although challenged in the civil suit but in the cross-examination, the said fact having been admitted by him, the said plea also cannot be accepted.

5. There being no violation of any statutory rules and the judgments and decree passed by the Courts below being based upon proper appreciation of the pleadings and the evidence brought on record, cannot be said to be in any manner faulty which would call for interference by this Court.

6. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

7. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

November 14th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No