

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.1905 of 2020 (O&M)
Date of decision: 27.11.2020

EQUITAS SMALL FINANCE BANK LTD. AND ANOTHER

...PETITIONERS

VS.

TARSHAM KUMAR SHARMA

...RESPONDENT

IN VIRTUAL COURT

CORAM:HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Sanjiv Kumar Yadav, Advocate, for the petitioners.

Mr. Suresh Ahlawat, Advocate, for the respondent.

Mr. Amit Aggarwal, AAG, Haryana.

RAJBIR SEHRAWAT, J.(ORAL)

CM Nos. 6925-CII of 2020 and 9147-CII of 2020

These applications have been filed under Section 151 CPC exemption from filing certified copy of Annexures, for placing on record true typed copies thereof and for placing on record Annexures P-11 to P-13.

These applications are allowed, subject to all just exceptions.

CM No.6926-CII of 2020

This application has been filed by the respondent under Section 151 CPC for vacating the stay order dated 11.06.2020

passed in this case.

Counsel for the petitioners has filed reply to the said application which is taken on record.

Since the main case is being disposed of finally the application for vacation of Stay is disposed of as having become infructuous.

CR No. 1905 of 2020

This petition has been filed by defendant in the original suit, challenging order dated 04.06.2020 passed by Ld. Additional Sessions Judge, Jhajjar whereby, while reversing the order of the trial Court, the application filed by the respondent/plaintiff for interim injunction was allowed and the respondent/plaintiff was ordered to be put back in service by the petitioners/defendants

The brief facts, as mentioned in the order passed by the Court below are as under:-

"The appellant/plaintiff was an employee of the respondents/defendants since 10.03.2017 under the Employee Code bearing number E-26501 Branch Code 11006. He was working for the Bank/Company even on the date of institution of the present appeal. That in the month of February 2020 due to some false allegations levelled against him by the respondents/defendants that he had not been discharging his duties, in an irresponsible manner, he suffered mental agony and decided to switch over his job, to some other Bank/Company and tendered his resignation, on the Web-portal of the respondents/defendants, on 18.02.2020 under pressure and given circumstances. That his resignation had been accepted/approved by the Branch Manager, Manager's Manager/Cluster Head and the

Regional HR Manager, on 07.03.2020 and 09.03.2020, as the case may be. However, due to the Pandemic of COVID-19 Virus and the consequent lock-down, an uncertain and unprecedented situation arose due to which, he could not find a new job and accordingly, informed his superior officers that he intended to withdraw his resignation, as there was no other source of livelihood of his family, and applied off-line, to withdraw the same, on 29.04.2020 since, as per the Policy of the respondents/defendants, the resignation of an employee of the Bank was to be approved by the Reporting Manager, Manager's Manager and HR Manager and in case, the same was approved by the HR Manager, the withdrawal could only be initiated by reaching out to the HR Manager, off-line. It was the case of the appellant/plaintiff that he could withdraw his resignation, any time before relinquishing his job/charge i.e. up to 01.06.2020, which was shown as his last working day, on the web-portal of the respondents/defendants. However, he had not been allowed to do, so in spite of, requests made to his seniors (i.e. HR Country Head and C.P.O. and the Senior Vice President, Human Resources Department), on 29.04.2020 and 01.05.2020 reply to cancel his resignation and not to lay him off, forcefully".

The application filed by the plaintiff/respondent seeking interim injunction was declined by the trial Court. However, the Appellate Court has reversed the order passed by the trial Court and had granted injunction in favour of the respondent/plaintiff. Challenging that order, the present petition has been filed by the defendant in the suit.

It has been argued by the counsel for the petitioners/defendants that the respondent had submitted his

resignation vide communication dated 29.04.2020 through the online mode. The same was accepted by the competent authority of the petitioner-bank on 07.03.2020 and approved by Manager HR on 09.03.2020. It is further submitted that although the policy/regulation of the petitioner-bank contemplated an opportunity for the respondent to withdraw the resignation despite the same having been accepted by the authority, but by appearing physically before the Manager HR. However, it was not binding upon the Manager HR to permit the respondent to withdraw his resignation. Hence, if the Manager HR has not permitted withdrawal of the resignation by the plaintiff/respondent herein, no fault could be found with the decision taken by the Manager HR. It was absolute discretion of the Manager HR to accept or not to accept the request of the employee; for withdrawal of the resignation after the same had been accepted through online process. Referring to the pleadings it is submitted by the counsel that even the conduct of the respondent had not been satisfactory. Hence, the Ld. Appellate Court has wrongly reversed the order passed by the trial Court.

On the other hand, counsel for the plaintiff/respondent has submitted that the respondent had given a 90 days' notice for his resignation, which was to expire on 01.06.2020. Since the respondent was facing difficulties arising on account of Covid-19 Pandemic, therefore, he thought it fit to withdraw the resignation. Although the petitioner/defendant claim to have accepted the resignation on 07.03.2020 and 09.03.2020, however, the respondent/plaintiff had actually been working right upto 31.05.2020.

It is further submitted that since the policy/regulation of the bank itself provided an opportunity to the plaintiff to make a request for withdrawal of his resignation, despite the same having been accepted in the online mode, by making a request through physical mode, therefore, the respondent had made that request for withdrawal of the resignation. That request was made well before the last date mentioned in the notice of the respondent/plaintiff served upon the petitioners/defendants. Hence, the plaintiff/respondent could not have been ousted arbitrarily by the Manager HR. It is also submitted by the counsel that despite the alleged acceptance of the resignation on 07.03.2020 and approved on 09.03.2020, the plaintiff/respondent was permitted to discharge his duties upto the last date mentioned in the notice. Therefore, any acceptance of resignation of the respondent by the petitioners in the online process loses its relevance. Accordingly, the respondent/plaintiff had a right to withdraw his resignation upto the last date mentioned in the notice. He had done the same only. Even the Ld. Appellate Court has upheld the same. Hence, there is nothing wrong with the order passed by the Court below.

It is further submitted by counsel for the respondent/plaintiff that the argument of the petitioner-bank that the conduct of the respondent/plaintiff had not been satisfactory is totally baseless. Though the petitioner-bank had issued him the memos for his alleged mis-conduct but that is totally irrelevant for the purpose of withdrawal of resignation.

Having heard the learned counsel for the parties and having

perused the case file, this Court does not find any illegality or impropriety with the order passed by Ld. Appellate Court. The Ld. Appellate Court has rightly pointed out in the order that the policy of the bank itself provides an opportunity to the employee to reach out to the Manager HR through physical mode for withdrawing of the resignation; despite the fact that the resignation might have been accepted in the online mode. This observation of the Court below is fortified by the fact that on alleged acceptance of the resignation of the respondent, the petitioner/bank had not asked the respondent to stop working in the bank. Hence, it is obvious that despite the alleged acceptance of the resignation by the petitioners in the online process, the respondent was treated as an employee of the bank and he was taken on the job as well, till the last date mentioned by the respondent in his resignation notice. In view of this fact the respondent had every right to withdraw his resignation upto the last date mentioned in his resignation notice, i.e., before 01.06.2020. Undisputedly, the respondent had withdrawn his resignation before the last date mentioned in the said resignation notice. Therefore, his request for withdrawal could not have been rejected by the petitioners/bank merely by saying that his resignation already stood accepted. The very fact; that the petitioner-bank permitted the respondent employee to work despite the alleged acceptance of the resignation of the respondent in the online process; shows that the petitioner-bank itself had not treated that acceptance of the resignation as final fact. Therefore, the bank cannot claim that the right of the respondent to withdraw the resignation stood concluded;

only due to the fact that earlier his resignation had been accepted in the online process. Needless to say that no separate and specific reason has been mentioned for declining the request for withdrawal of the resignation, which the respondent has made through the physical mode.

Although, counsel for the petitioner has submitted that the respondent did not have good conduct and the bank had issued him the memos on account of the misconduct, however, this is not even the reason given by the petitioner-bank for not accepting the prayer of the respondent-employee to withdraw his resignation.

In view of the above, this Court does not find any merit in the present revision petition.

Accordingly, the present revision petition is dismissed.

November 27, 2020
Poonam Sharma

(RAJBIR SEHRAWAT)
JUDGE

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