

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 05.02.2020****RSA No.5590 of 2018 (O&M)**

Baghel Singh

...Appellant

Vs.

The State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. S.K.Chawla, Advocate, for the appellant.

RAJIV NARAIN RAINA, J. (ORAL)

1. The appellant was enlisted as Constable in Punjab Police on 20.05.1992. One day during probation, he decided to quit and gave in writing to his appointing authority, the Senior Superintendent of Police, Jagraon that he did not want to serve the police department due to domestic problems. He sought discharge from service with immediate effect on his own volition and request.

2. The Senior Superintendent of Police accepted his request and passed the order dated 10.09.1993 discharging him from service invoking Rule 12.21 of the Punjab Police Rules, 1934. It is against this order that the appellant has tried to retract from, by making a representation on 01.07.1998 to the Deputy Inspector General of Police to reinstate him in service. The representation was dismissed on 25.02.1999. He took the matter in a mercy petition before the Home Secretary to Government of Punjab which also found no favour of the officer. It is thereafter that he turned his way to the court by filing a suit which has been dismissed and so has the appeal.

3. In this second appeal, it is argued that the impugned order dated 10.09.1993 does not contain reason in writing that the probationer appellant was not likely to make an efficient police officer and, therefore, the order of discharge is bad in law as the basic ingredient in Rule 12.21 is not satisfied.

4. This argument is noticed only to be rejected for the simple reason that whether it was a case of discharge from service under Rule 12.21 or a request for resignation from service, it would mean the same thing. If he resigned Rule 12.21 was not required to be invoked. If the order was passed under the provision that it would not change the basic character of the severance from service as the police department had nothing to do with it. The difference being in shades of meaning, that is, it is not only a permanent government servant who can resign from service with consequences entailed in the Rules. A probationary Constable can also quit his job if it does not suit him. Nor can he be compelled to do so except for being advised orally by an officer showing concern in the predigament policeman faces not to do so and to give it another thought and not act rashly though he is not compelled by law. Moreover, once you consciously quit without any pressure or coercion it is not the government's decision which can be reviewed after discharge. During probation a discharge can take place as the employee has not right to be declared regular unless he completes the period of probation satisfactorily to the satisfaction of the appointing authority by an order in writing.

5. Therefore, the impugned order was more in the nature of resignation from service as a probationer, quitting the job with a reason stated and expressing his wish not to serve in the Punjab Police. That wish has been accepted by the Senior Superintendent of Police.

6. The judgments and decree of the trial court and the first Appellate Court are unexceptional, which do not warrant any interference in regular second appeal, there being no law point involved for determination other than what is said above.

7. For what has been said above, the appeal has no life and is dismissed.

05.02.2020
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: Yes