

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

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**CWP-6747-2021 (O&M)
Decided on : October 28, 2021**

Vipindeep Kaur Ahluwalia

....Petitioner

VS

State of Punjab and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. H.S.Brar, Senior Advocate with
Mr. P.S.Bassi, Advocate and
Mr. Yuvraj Saini, Advocate
for the petitioners.

Mr. Pankaj Gupta, Addl. Advocate General, Punjab.

Ms. Divya Sharma, Advocate
for respondent No.2.

AJAY TEWARI, J.(Oral)

(1) By this petition the petitioner has challenged the minutes of meeting dated 30.09.2020 pertaining to rejection of request dated 10.08.2020 for re-consideration of decision dated 23.05.2019 qua acceptance of resignation of the petitioner (Annexure P-13) and the order dated 14.10.2020 (Annexure P-20) whereby the request letter dated 10.08.2020 submitted by the petitioner for re-consideration of the decision dated 23.05.2019 has been declined and also seeking reinstatement in service w.e.f. 09.06.2019 alongwith all consequential

benefits.

(2) Brief facts of the case are that the petitioner was selected and appointed as an officer in Punjab Civil Services (Judicial) Branch on 26.10.2006. At that time, she had a male child who was born on 31.10.2005. As per the petitioner, the child was diagnosed with medical condition ADHD (Attention Deficit Hyperactivity Disorder) with early signs of autism when he was only five years of age. The petitioner unfortunately had to take divorce from her first husband in March, 2017 and thereafter, she got remarried to one Inderjit Singh Ahluwalia who is apparently a citizen of USA and is settled in California. In the year 2019, as per the petitioner, she was diagnosed with Rheumatoid Arthritis and within 2-3 months of that time her condition worsened. It was in these circumstances she moved an application dated 26.3.2019 (Annexure P-9) wherein she sought Ex-India leave by availing extraordinary leave/leave of the kind due from 1.5.2019 to 31.10.2019 in which she took two grounds. The first ground taken was that her son who was then 13 years of age was not able to cope up with his day to day activities and therefore, she intended to settle him abroad and, since he was so dependent on her she required adequate time to go and help him settle there, *'as such, keeping in view his medical condition, it is necessary for me to be with him in order to help him in adapting with the life in the USA'*. It was further mentioned that she had also been diagnosed with Arthritis and for that she intended to take a second opinion from a specialist in the USA. She

further sought personal hearing which was granted by the Inspecting Judge. However, by letter dated 12.4.2019 her application for Ex-India leave was declined. On 10.5.2019, that is almost one month after the application for leave was declined the petitioner resigned from service mentioning as follows :-

“Life is all about balance. A judicial officer has to strike a balance between professional responsibilities and family commitments. A female judicial officer is also required to play the role of a mother and a wife and such a role assumes more importance if the child she is nurturing is a child with special needs.

Therefore, in such circumstances, I am left with no option but to resign from my services. It is therefore requested that my resignation may kindly be accepted and the period of one month notice may kindly be considered from 10.5.2019 under rules.”

(3) The respondent No.2 on the administrative side took the decision of acceptance of the resignation letter of the petitioner on 23.05.2019. On the basis of the said decision taken by respondent No.2 on the administrative side, the resignation letter submitted by the petitioner was accepted w.e.f. 09.06.2019 by the Additional Chief Secretary to Government of Punjab vide notification dated 06.06.2019 and the same was conveyed to the petitioner by respondent No.2 through the District & Sessions Judge, Fatehgarh Sahib vide order dated 10.06.2019 Annexure P-14. Approximately one year and two months later the petitioner moved a representation dated 10.8.2020 Annexure

P-19 praying that acceptance of her resignation be revoked and she be allowed to continue in service on the ground that now she was feeling better. Vide order dated 14.10.2019 Annexure P-20 the respondent No.2 informed the petitioner that the request submitted by her on 10.08.2020 was considered and rejected. Hence, the present petition to challenge the minutes of meeting dated 30.09.2020 rejecting the request of the petitioner dated 10.08.2020 for re-consideration of decision dated 23.05.2019 and also the order dated 14.10.2020 whereby the request letter dated 10.08.2020 submitted by the petitioner for re-consideration of the decision dated 23.05.2019 has been considered and declined.

(4) Learned Senior Counsel appearing for the petitioner has vehemently argued that it was only in the dire circumstances detailed above that the petitioner was constrained to resign from the service and, in that sense it must be held that resignation was not a voluntarily act.

(5) In our considered opinion, this argument cannot be accepted. The petitioner had consciously resigned. At that time, she had 13 years of service of Class-I Gazetted Officer in the State of Punjab. She well knew that her service was regulated by Punjab Civil Services Rules and particularly under Rule 7.5 of Punjab Civil Services Rules, Part-I, Chapter VII, which is quoted herein below :-

“7.5. Forfeiture of Service on Resignation:

(4) The appointing authority may permit a person to withdraw his resignation in public interest on the following conditions, namely:—

(i) that the resignation was tendered by the Government

employee for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation;

(ii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;

(iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days;

(iv) that the aforementioned period of ninety days shall be observed in the manner that the employee concerned should put in his application for withdrawal of resignation within two months of being relieved and the same should as far as possible be processed within a period of one month; and

(v) that the post, which was vacated by the Government employee on the acceptance of his resignation or any other comparable post, is available.”

(6) If the petitioner, as it is now being highlighted, that she, as well as her son had an unexpected recovery, there was nothing to stop her from moving the application for withdrawal within 90 days. Moreover, as per the petition the petitioner and her son actually were well enough for her to return within 4 months but even then she took almost a year to move the application.

(7) In these circumstances, no fault can be found with the

decision of rejecting the said representation.

(8) Learned Senior counsel has further argued that under Article 229 of Constitution of India, the Chief Justice of the respondent No.2 could have considered the application even beyond 90 days but the same was not done.

(9) In our considered opinion, this argument also cannot be accepted for the simple reason that Article 229 applies to officers and employees of respondent No.2 while the petitioner was an officer of respondent No.1 and governed by Punjab Civil Services Rules.

(10) No other argument has been raised. Consequently, petition stands dismissed.

(11) Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(ALKA SARIN)
JUDGE

October 28, 2021
anuradha

Whether speaking/reasoned	-	Yes
Whether reportable	-	Yes