Diksha Rane

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2277 OF 2019
WITH
INTERIM APPLICATION NO.2175 OF 2021

Rohit Dewan ..Petitioner/Applicant
vs.
Syndicate Bank and ors. ..Respondents

Mr. P. M. Palshikar i/b. Mr. Shailesh K. More for petitioner/applicant.

Mr. Piyush Shah a/w Mr. Jay Vora for respondent nos.1 to 3.

CORAM : DIPANKAR DATTA, CJ. &

M. S. KARNIK, J.

HEARD ON : AUGUST 23, 2022.

JUDGMENT ON : SEPTEMBER 23, 2022.

JUDGMENT (PER M. S. KARNIK, J.) :

1. This is a writ petition filed under the provision of Article 226 of the Constitution of India. The subject matter relates to the alleged illegal termination of employment of the petitioner with effect from July 12, 2018. The petitioner was working with the Syndicate Bank. Apart from quashing and setting aside the impugned orders dated July 12, 2018 and July 13, 2018, the petitioner prays for reliefs in terms of prayer clause (b) which reads thus :-

> "b. That this Honourable Court be pleased to direct the Respondents Bank by appropriate writ order or direction to reinstate the Petitioner with all consequential relief and back wages w.e.f. 12.7.2018 with interest @ 6% p.a. + Allotment of Flats in Mumbai + All Allowance including transportation cost on account to vacate of flat, Children's Education allowance and other terminal benefits w.e.f 12.07.2018 with interest + promotion will be effected + Appointment letter for notice."

2. The facts in a nutshell are stated hereafter. The petitioner was appointed by an appointment letter dated October 27, 2010 and joined the employment of the respondent no.3 - Bank on January 7, 2011 as a Senior Manager (FS). The petitioner's appointment was governed by the provisions of Syndicate Bank (Officers') Service Regulations, 1979 (hereafter 'Regulations of 1979) and Syndicate Bank (Officers') Employees Conduct Regulations, 1976 (hereafter 'Regulations of 1976). The petitioner was selected as a specialist officer (Forex) and was posted at the Foreign Exchange Processing Centre, New Delhi. On September 27, 2011, the petitioner was transferred to the South Block, New Delhi and was in-charge of handling foreign exchange transactions. Thereafter, on October 3, 2011 the petitioner was transferred again to the International Banking Division at New Delhi. The petitioner was confirmed in the employment of the bank as a Senior Manager with effect from January 7, 2012. Thereafter, the petitioner was posted at different stations on transfer. On

December 5, 2017 the petitioner was appointed to work at London Branch of the bank and the clearance in respect of the said appointment was received from the Ministry of Finance sometime in January 2018. The petitioner made an application for visa. By an e-mail dated February 23, 2018, the petitioner expressed his intention to travel from India, that is, from March 5, 2018.

3. The petitioner submitted his resignation from service to the bank on April 13, 2018 due to personal/family issues and requested that he may be relieved latest by June 30, 2018 after adjusting the terminal benefits payable to him. The resignation letter was received by the bank on April 13, 2018 itself. The said letter was forwarded by the Assistant General Manager to the personal section of the regional office of the bank viz. respondent no.1. By letter dated April 27, 2018, the petitioner requested the bank to reduce the period of notice or waive the notice period for 12 days so that the admission of his children could be made on time. Vide a letter dated May 31, 2018, the petitioner requested the bank to permit him to continue him in service till July 12, 2018, that is, till completion of the notice period from the date of resignation. The Deputy General Manager of the bank by the letter dated May 31, 2018 recommended permission to relieve the petitioner on July 12, 2018 on completion of three months notice period instead of being relieved on June 30, 2018. By a letter dated June 20, 2018 issued by the Regional Office (respondent no.1), the petitioner was informed by the Deputy General Manager, that his resignation letter dated April 13, 2018 and request for being relieved on July 12, 2018 had been accepted by the bank and that he would stand relieved from the services of the bank on July 12, 2018 as requested by the petitioner. The petitioner averred that the said letter dated June 20, 2018 was not conveyed to him. The petitioner, by a letter dated June 30, 2018 withdrew his resignation letters dated April 13, 2018 and May 31, 2018 and requested that the said letters be treated as withdrawn and he be permitted to continue in the services of the bank. The said letter was received by the respondent - bank on July 3, 2018 much before the stipulated notice period. According to the petitioner, the request for withdrawal of the resignation letter was unconditional. Thereafter, by another letter dated July 3, 2018, the petitioner reiterated his request for withdrawal of his resignation. The Assistant General Manager of the bank recommended to the personal section of the respondent no.1-bank that the request of the petitioner for withdrawal of the resignation be considered favourably. On July 6, 2018 the respondent no.1-bank issued a letter of allotment of bank owned/bank leased official quarters to the petitioner at Andheri (East), Mumbai. By a letter dated July 9, 2018 issued by the respondent no.1-bank, the petitioner was informed by the Deputy General Manager that the competent authority of the respondent no.1-bank accepted the withdrawal of the resignation and has permitted the petitioner to continue in service of the bank and pursuant thereto the petitioner has worked. The petitioner, however, received a memorandum dated July 12, 2018 issued by the respondent no.3-the General Manager, Syndicate Bank informing him that he would stand relieved after the office hours on July 12, 2018 on his resignation from the services of the respondent - bank. The petitioner received an email on July 13, 2018 from the respondent no. 3 and a letter dated July 12, 2018 from the respondent no.2 – Deputy Regional Manager informing that the competent authority had not accepted the withdrawal of resignation and he would stand relieved from the service of the respondent – bank on completion of notice period dated July 12, 2018. Hence the cause for filing this writ petition.

4. The 3rd respondent – the Chief Manager of Syndicate Bank, Shri Jeevan Madhavrao Dalvi has filed an affidavit-in-reply opposing the writ petition. It is the contention of the respondent – bank that the petitioner's resignation has been accepted by the competent authority and therefore, there was no question of withdrawing the resignation. The relevant portion of the affidavit which reflects the stand of the respondent – bank is reproduced thus: -

> "3(b) The Petitioner tendered his voluntary resignation on 13th April 2018 seeking to be relieved latest by 30th June 2018. Thereafter, Petitioner desired to continue in services till 12th July 2018 which was also agreed to. As the resignation of the Petitioner was

accepted/communicated by the Respondent on 20th June 2018 itself and the contract of employment having come to an end, the question of withdrawing the said resignation on 3rd July 2018 does not arise.

3(c) The Petitioner is guilty of suppressing material facts. The Petitioner was being sent on deputation to work at London Branch in December 2017, receiving clearance from Ministry of Finance in January 2018, completing visa formalities in March 2018 chose to tender his unconditionally voluntary resignation, requested for relieving him by waiving notice period to secure admission for his wards in Delhi Schools is now taking a somersault by withdrawing his resignation after its effective acceptance by the Bank and seeking transfer to Delhi RO/Faridabad RO where presently no vacancy exists.

4. I say that the aforementioned submissions are made without prejudice to one another and the submissions herein below are made without prejudice to the aforementioned submissions.

I say that the facts relevant to the case are as under: -

5. I say that the Petitioner was confirmed as Senior Manager (FX) in Middle Management Grade Scale III w.e.f. 7th January 2012. He was posted at Foreign Exchange Processing Centre at New Delhi and last worked at Treasury and International Banking Division at Cuffe Parade, Mumbai. He was governed by Syndicate Bank (Officers') Service Regulations, 1979 and Syndicate Bank (Officers') Employees Conduct Regulation, 1976.

6. I say that the Petitioner, in view of his experience in Forex related transactions, we to be sent on deputation to work at London Branch in month of December 2018. The necessary required clearance from the Ministry of Finance was received in month of January 2018. The necessary Visa formalities for him and his family were also completed in March 2018.

7. The Petitioner addressed an "Application for acceptance of Resignation" dated 13th April 2018 (Exhibit C to the Petition at page 27-28) to the Respondent Bank. It is pertinent to note that the said Application was unconditional and due to personal reasons and was submitted on 13th April 2018. The Petitioner made a request that he be relieved latest by 30th June 2018 after adjusting his terminal benefits towards liabilities and lieu of outstanding notice period salary and also withhold his gratuity till he vacated the Bank Quarters.

8. I say that as per Syndicate Bank (Officers') Service Regulations, 1979 and Syndicate Bank (Officers') Employees Conduct Regulation, 1976, the notice period was three months which could be waived or reduced by the Competent Authority. However, to avail benefits of Leave Encashment, it was incumbent for the employee to give requisite 3 months notice but could request the Competent Authority to reduce or waive the notice period. I say that the Petitioner vide his letter dated 27th April 2018 (Exhibit E to the Petition at page No 32) requested for reduction in notice period or waiver of notice for 12 days.

9. I say that in accordance with the request of the Petitioner for voluntarily resigning from services, Regional Office – 1 of the Respondent

Bank, vide letter dated 125/MRO-1/HRS/2018 dated 31st May 2018 by waiving the notice period, accepted the same and advised the General Manager, Treasury and International Banking Department (wherein Petitioner was working) to relieve him, on 31st May 2018. The Respondent Bank craves leave to refer and rely upon the said letter dated 31st May 2018 (125/MRO-1/HRS/2018) during the hearing of the Petition. The Petitioner after acknowledging said letter 125/MRO-1/HRS/2018 of Bank relieving him from services, made a request to continue in services of Bank till 12th July 2018. (Exhibit F to the Petition at page 35).

10. I say that the Respondent Bank, vide its letter dated 20th June 2018 (Exhibit H to the Petition at page no.37) informed the Petitioner that his resignation has been accepted by the Competent Authority subject to conditions mentioned therein and he would be relieved from Bank's services on 12th July 2018 as per his request. The Respondent Bank states that vide letter dated 541/T&IBD/ADMN/2018 dated 12th July 2018 also intimated him about being relieved from duties from the said date i.e. 12th July 2018. (Exhibit M to the Petition at Page 44).

11. I say that despite effective acceptance of his resignation by the Respondent Bank, the Petitioner on 3rd July 2018, vide his letter dated 30th June 2018, addressed a letter to the Bank requesting to withdraw the said resignation letter dated 13th April, 2018 and 31st May 2018 and also requested for transfer of services to Delhi RO/Faridabad RO. In the said letter, for the first time he referred to various reasons including his mother's illness. The Respondent Bank states that after tendering resignation voluntarily and its due acceptance communicated to the

> Petitioner, it is not open for the Petitioner to withdraw the same for any reason as alleged."

5. Heard learned counsel for the petitioner and learned counsel for the respondents. With the assistance of learned counsel we have gone through the memo of the writ petition, pleadings and the exhibits.

6. The petitioner was appointed as Senior Manager (FX) on October 27, 2010. The appointment letter prescribes the terms and conditions. The petitioner's appointment is governed by the Regulations of 1979 and Regulations of 1976. Clause 22 of the appointment letter which has some bearing on the issue reads thus:-

> "22. He shall not leave or discontinue his service in the bank without first giving notice in writing, of your intention to leave or discontinue the services or resign. The period of notice required shall be 3 months."

7. By a letter dated April 13, 2018, the petitioner made an unconditional request for accepting his resignation due to personal reasons. Again on April 27, 2018, the petitioner requested that he may be relieved from the services of the bank latest by June 30, 2018. By a letter dated May 31, 2018, the petitioner requested the bank to continue him in service till July 12, 2018 i.e. till completion of 3 months notice period from the date of resignation letter. On June 20, 2018, the petitioner was informed that in terms of Regulation 20 (2) of Regulations of 1979, the petitioner's resignation is accepted by the competent authority subject to the conditions prescribed therein. It is further mentioned that the petitioner shall be relieved from the bank's services on July 12, 2018, as requested by him, on completion of 3 months notice period. According to the petitioner, he never received the letter dated June 20, 2018. By a letter dated June 30, 2018, the petitioner made a request for withdrawal of his resignation and for transfer. On July 3, 2018, the application for withdrawal of resignation was forwarded to the competent authority with the recommendation that the petitioner's request for withdrawal of resignation may be considered favourably. On July 6, 2018, the petitioner was informed that the competent authority allotted him bank owned quarters in Andheri (East), Mumbai. By letter dated July 9, 2018, the petitioner was informed that the competent authority has accepted the petitioner's request for withdrawal of resignation and permitted him to continue in the services of the bank. On June 12, 2018, the petitioner was informed that he is relieved with effect from July 12, 2018, after office hours on his resignation from the services of the bank. It is on July 12, 2018, that the petitioner was informed that the competent authority has not accepted the petitioner's application for withdrawal of resignation.

8. Learned counsel for the petitioner invited our attention to clause (2) of Regulation 20 of the Regulations of 1979. Clause (2) of the Regulation 20 reads thus: -

> "20 (2) An Officer shall not leave or discontinue his service in the Bank without first giving a notice in writing of his intention to leave or discontinue his service or resign. The period of notice required shall be three months and shall be submitted to the Competent Authority as prescribed in these regulations.
>
> Provided further that the Competent Authority may reduce the period of three months, or remit the requirement of notice."

9. The petitioner initially wanted his resignation to be effective from June 30, 2018. Later on, the petitioner requested that he may be relieved from July 12, 2018 i.e. on completion of the notice period of 90 days. Though the petitioner says that the letter dated June 20, 2018 accepting his resignation by the competent authority was never received by him, nonetheless, even if it is to be held that such a letter was received by the petitioner, the letter mentions that the petitioner shall be relieved from the bank services on July 12, 2018 upon completion of 3 months notice period. This clearly presupposes that the notice period was not waived in terms of the Regulation 20 (2) nor is the requirement of the notice remitted. In such circumstances, the resignation was to be effective from July 12, 2018 till which date the petitioner confirmed to be in service of the bank.

10. On record, prior to July 12, 2018, is a communication of the bank informing the petitioner that his resignation has been accepted and that he would stand relieved from July 12, 2018. Curiously, the petitioner was informed by a communication dated July 9, 2018 that his application for withdrawing the resignation has been accepted and the petitioner is permitted to continue in the services of the bank.

11. The point for consideration is when the petitioner's resignation is to be effective from July 12, 2018, is it open for the petitioner to withdraw the resignation, in the face of the communication that the petitioner's resignation has been accepted and clearly informed that he would stand relieved from July 12, 2018.

12. Learned counsel for the petitioner relied upon the decision of the Supreme Court in the case of **Punjab National Bank vs. P. K. Mittal**[1]. The question for consideration before the Supreme Court was interpretation of the service regulations of the Punjab National Bank. The relevant service regulation being Regulation 20, reads as under: -

> "20(1): Subject to sub-regulation (3) of regulation 16, the bank may terminate the services of any officer by giving him three months' notice in writing or by paying him three months' emoluments in lieu thereof.
>
> (2) No officer shall resign from the service of the bank otherwise than on the expiry of three months from the service on the bank of a notice in writing of such resignation. Provided further that the competent authority may reduce the period of three months, or remit the requirement of notice."

1 1989 Supp (2) SCC 175

13. Regulation 20(2) of the Service Regulations of Punjab National Bank is similar to Regulation 20(2) of Regulations of 1979 which is the subject of the present writ petition. The facts in **Punjab National Bank** (supra) were that the officer concerned purported to resign from the service of the bank due to personal reasons by a communication dated January 21, 1986. In the notice it was stated that the date of receipt of the letter should be treated as the date of the commencement of the notice period so that, inclusive of the same, his resignation would become effective on June 30, 1986. The Deputy General Manager, who was the competent authority under the Service Regulations, had agreed that the resignation may be accepted with effect from June 30, 1986. However, what actually transpired was that the respondent received a letter from the bank on February 7, 1986 informing him that his resignation letter dated January 21, 1986 had been accepted by the competent authority with immediate effect by waiving the condition of notice and that, consequently, he was being relieved from the service of the bank with effect from the afternoon of the same date, namely, February 7, 1986. A writ petition was filed by the officer in the High Court challenging the validity of the purported acceptance of his resignation with effect from February 7, 1986 and for a direction to the bank to treat him as in service of the bank up to June 30, 1986 and as entitled to all benefits while being in such service. A further development took place is that, on April 15, 1986, the officer wrote a letter to the bank by which he purported to withdraw the resignation letter dated January 21, 1986. The High Court, therefore, dealt with the situation resulting from this subsequent development and held that the petitioner’s resignation letter would have become effective only on June 30, 1986. Under the regulations there was no jurisdiction whatever in the competent authority to determine his services earlier. Until the resignation became effective on June 30, 1986, the petitioner had a right to withdraw the same and in fact had also exercised that right. The High Court concluded:

> "We may notice that this writ petition was filed at a stage when the petitioner had not sent his letter dated 15th April, 1986 whereby he withdrew his resignation letter dated 21st January, 1986. This is a subsequent development during the pendency of the writ petition. Therefore, we are not called upon to decide the earlier grievance that the resignation could not have been accepted at an earlier date. Even to that submission we would have said that there is no provision of acceptance but that question does not arise so we will not deal with it further. Result is that the impugned order dated 7th of February, 1986 is hereby quashed and it is declared that the petitioner continues to be in service with the respondent bank. However, in view of the facts of the present case, parties are directed to bear their own costs of the present proceedings."

14. Before the Supreme Court in **Punjab National Bank** (supra) a contention was raised by learned counsel for the bank that Regulation 20(2) provided for a notice to the employer only in order to protect the employer's interests and to enable the employer, in case it decided to accept the resignation, to make other arrangements in place of the resigning employee. He submitted that, this being a provision for the benefit of the employer, its requirements could be waived by the employer, if it so desired, unilaterally. It was submitted that the proviso to Clause (2) of the regulation indeed makes it clear that it is open to the bank to waive the requirement of notice or to reduce the period of the notice to less than three months. It was, therefore, submitted that when the respondent sent in his resignation on January 21, 1986, it was not incumbent on the bank to wait till June 30, 1986 when the notice period would expire. It was competent for the bank to waive any notice at all and to accept the resignation with immediate effect or with effect from such other date as the bank may consider appropriate. It was further contended by learned counsel that once the resignation letter of the respondent had been accepted by the bank and given effect to, there was no further possibility of the respondent seeking to withdraw the resignation letter as he has purported to do in this case. Their Lordships interpreted the provision of Regulation 20 (2) of the Punjab National Bank Services Regulations and held thus: -

> "5. We have given careful thought to this contention of the learned counsel and we are of the opinion that the High Court was right in the conclusion it reached. Clause (2) of regulation 20

makes it incumbent on an officer of the bank, before resigning, to serve a notice in writing of such proposed resignation and the clause also makes it clear that the resignation will not be effective otherwise than on the expiry of three months from the service of such notice. There are two ways of interpreting this clause. One is that the resignation of an employee from service being a voluntary act on the part of an employee, he is entitled to choose the date with effect from which his resignation would be effective and give a notice to the employer accordingly. The only restriction is that the proposed date should not be less than three months from the date on which the notice is given of the proposed resignation. On this interpretation, the letter dated 21st January, 1986 sent by the employee fully complied with the terms of this clause. Though the letter was written in January, 1986 the employee gave more than three clear months' notice and stated that he wished to resign with effect from 30th of June, 1986 and so the resignation would have become effective only on that date. The other interpretation is that, when an employee gives a notice of resignation, it becomes effective on the expiry of three months from the date thereof. On this interpretation, the respondent's resignation would have taken effect on or about 21.4.1986 even though he had mentioned a later date. In either view of the matter, the respondent's resignation did not become effective till 21.4.1986 or 30.6.1986. It would have normally automatically taken effect on either of those dates as there is no provision for any acceptance or rejection of the resignation by the employer, as is to be found in other rules, such as the Government Services Conduct Rules.

6. Much reliance was placed on the terms of the proviso to clause (2) of regulation 20 to justify the action of the bank in terminating the respondent's

services earlier but we do not think that the proviso can be interpreted in the manner suggested by learned counsel for the bank. The resignation letter of the officer has to give at least three months' advance notice under the main part of the clause. What the proviso contemplates is that in a case where the employee desires that his resignation should be effective even before the expiry, of the period of three months or without notice being given by him, the bank may consider such a request and waive the period or requirement of notice if it considers it fit to do so. That question does not arise in the present case because the employee had not requested the bank to reduce the period of notice or to waive the requirement of notice. Dr. Anand Prakash seeks to interpret the proviso as empowering the bank, even without any request on the part of the employee, to reduce the period or waive the requirement of notice. In other words, he says the bank has power to accept the resignation with immediate effect even though the notice is only of a proposed future resignation. We do not think this contention can be accepted. As we have already mentioned, resignation is a voluntary act of an employee. He may choose to resign with immediate effect or with a notice of less than three months if the bank agrees to the same. He may also resign at a future date on the expiry, or beyond the period, of three months but for this no further consent of the bank is necessary. The acceptance of the argument of Dr. Ananad Prakash would mean that, even though an employee might express a desire to resign from a future date, the resignation can be accepted, even without his wishes, from an earlier date. This would not be the acceptance of a resignation in the terms in which it is offered. It amounts really to forcing a date of termination on the employee other than the one he is entitled to choose under the. regulations. As rightly pointed out by the High Court, the termination of service under clause (2) becomes effective at the instance of the employee and the services of the employee cannot be terminated by the employer under this clause.

7. Dr. Anand Prakash emphasises that as clause (2) and its proviso are intended only to safeguard the bank's interests they should be interpreted on the lines suggested by him. We are of the opinion that clause (2) of the regulation and its proviso are intended not only for the protection of the bank but also for the benefit of the employee. It is common knowledge that a person proposing to resign often wavers in his decision and even in a case where he has taken a firm decision to resign, he may not be ready to go out immediately. In most cases he would need a period of adjustment and hence like to defer the actual date of relief from duties for a few months for various personal reasons. Equally an employer may like to have time to make some alternative arrangement before relieving the resigning employee. Clause (2) is carefully worded keeping both these requirements in mind. It gives the employee a period of adjustment and rethinking. It also enables the bank to have some time to arrange its affairs, with the liberty, in an appropriate case, to accept the resignation of an employee even without the requisite notice if he so desires it. The proviso in our opinion should not be interpreted as enabling a bank to thrust a resignation on an employee with effect from a date different from the one on which he can make his resignation effective under the terms of the regulation. We, therefore, agree with the High Court that in the present case the resignation of the employee could have become effective only on or about 21st April, 1986 or on 30th June, 1986 and that the bank could not have "accepted" that resignation on any earlier date.

The letter dated 7th February, 1986 was, therefore, without jurisdiction.

8. The result of the above interpretation is that the employee continued to be in service till the 21st April, 1986 or 30th June, 1986, on which date his services would have come normally to an end in terms of his letter dated 21st January, 1986. But, by that time, he had exercised his right to withdraw the resignation. Since the withdrawal letter was written before the resignation became effective, the resignation stands withdrawn, with the result that the respondent continues to be in the service of the bank. It is true that there is no specific provision in the regulations permitting the employee to withdraw the resignation. It is, however, not necessary that there should be any such specific rule. Until the resignation become effective on the terms of the letter read with regulation 20. It is open to the employee, on general principles, to withdraw his letter of resignation. That is why, in some cases of public services, this right of withdrawal is also made subject to the permission of the employer. There is no such clause here. It is not necessary to labour this point further as it is well settled by the earlier decisions of this Court in **Raj Kumar v. Union of India**[2], **Union of India v. Gopal Chandra Misra**[3] and **Balram Gupta v. Union of India**[4].

9. Learned counsel for the appellant relied on certain observations in **Delhi Electric Supply Undertaking v. Tara Chand[5].** Certain other decisions were also cited by Dr. Anand Prakash but we do not think that they have any bearing on the issue before us. **Tara Chand** was a case under regulation 8 of the regulations made by the Delhi

2 AIR 1969 SC 180.
3 (1978) 3 SCC 301.
4 1987 Supp. SCC 228.
5 (1978) 2 SLR 425 (Del).

> Electric Supply Undertaking under the Electricity (Supply) Act, 1948. The regulation permitted the termination of the services of a servant of the undertaking "on notice of three months from either side without any cause to be assigned in case of permanent servants". The employee in that case sent a letter to the employer stating that "he was compelled to resign for various reasons" and this resignation was accepted by the undertaking. The Delhi High Court in its judgment (to which one of us was a party) observed that notice under the regulation was intended for the benefit of the employer which could, if it considered necessary or proper, waive the period of notice and accept the resignation with immediate effect. But that was a case where the employee, though bound to give three months' notice, expressed his desire to resign with immediate effect and it was also accepted by the employer. It was not the case that he had given notice indicating a desire to be relieved at a future date. The analogy of that case would have applied to the present case as well if the respondent here had expressed his desire to be relieved immediately even before the expiry of the three months' notice period and the bank had accepted it. The employer would then certainly have been entitled to accept the resignation, as requested by the employee, waiving the notice period. The distinction between that case and the present one is that, here, the employee has chosen a future date on which his resignation would be effective but he is being forced to "resign" before such date.”

15. Having regard to the interpretation placed by the Supreme Court on Regulation 20(2) of the Punjab Nation Bank Services Regulations, which provision is similar to the one with which we are dealing with in the present case, we have no hesitation in observing that our task in deciding the question that arises for consideration becomes relatively easy and that in our opinion, the decision of the Supreme Court in **Punjab National Bank** (supra) squarely applies to the facts of the present case.

16. Coming to the facts of the present case, Clause (2) of Regulation 20 makes it incumbent on an officer of the Bank, before resigning, to serve a notice in writing of his intention to resign and that the period of notice required is 3 months. The purport of Clause (2) of Regulation 20 is that the resignation will not be effective otherwise than on the expiry of three months from the service of such notice. The petitioner submitted his resignation to the bank on April 13, 2018 and requested that he may be relieved latest by June 30, 2018 i.e. before expiry of 90 days. The petitioner on April 27, 2018 requested the bank to reduce the period of notice or waive the notice period for 12 days. The petitioner, thereafter, requested the bank to relieve him from the services of the bank on July 12, 2018. The request for being relieved on July 12, 2018 was accepted by the competent authority and he was informed that he would stand relieved from July 12, 2018 as requested by the petitioner. Though the petitioner has submitted that the letter of acceptance of his resignation was never received by him, in our opinion, having regard to the language of Clause (2) of Regulation 20, such an acceptance will not have a material effect on the question to be decided in this writ petition, as in any case the resignation was to be effective from July 12, 2018. Initially, the petitioner had requested for waiver of the notice period but later on expressed that he be relieved upon completion of the notice period (90 days). Thus, this is not a case where the petitioner requested for waiving the notice period or that the bank has waived the notice period or the bank has reduced the notice period or that it has remitted the requirement of notice. The resignation, therefore, was to be effective only from July 12, 2018.

17. Learned counsel for the bank emphasizes that the bank had already taken a decision to accept the resignation and that the petitioner would stand relieved from July 12, 2018. According to him, this satisfies the requirement of Clause (2) of Regulation 20 as after the decision was taken by the bank to accept the resignation, the only consequence that remained was relieving the petitioner with effect from July 12, 2018 after office hours. Learned counsel's submission is that upon acceptance of the resignation with a clear stipulation that the petitioner would stand relieved from the date indicated in the notice, there is then no question of the petitioner withdrawing the resignation as the decision of the bank attains finality, as the relieving order is a consequence of what was requested by the petitioner himself. We do not find favour with the submissions made by learned counsel for the bank. We borrow *in extenso* the reasoning of the Supreme Court in **Punjab National Bank** (supra) while rejecting the contentions of learned counsel for the bank.

18. In terms of Clause (2) of Regulation 20, the resignation letter of the officer has to give at least three months' advance notice under the main part of the clause. What the proviso contemplates is that in a case where the employee desires that his resignation should be effective even before the expiry, of the period of three months or without notice being given by him, the bank may consider such a request and waive the period or requirement of notice if it considers it fit to do so. The petitioner did initially request the bank to reduce the period of notice but later on did not insist for such reduction and in fact made a request that he should be relieved upon completion of 90 days which request was accepted by the bank.

19. As held by Their Lordships in **Punjab National Bank** (supra), the resignation is a voluntary act of an employee. He may choose to resign with immediate effect or with a notice of less than 3 months if the bank agrees to the same. The acceptance of the argument of learned counsel for the bank would mean that, even though an employee might express a desire to resign from a future date, the resignation can be accepted, even without his wishes, from an earlier date. This would not be the acceptance of a resignation in the terms in which it is offered. It amounts really to forcing a date of termination on the employee other than the one he is entitled to choose under the regulations. No doubt, the bank communicated the acceptance of resignation of the petitioner much prior to the date when it was to be effective and endorsed the petitioner's request for being relieved upon completion of the notice period. There may be a situation where immediately upon tendering a resignation, the employer may inform the officer of its decision of accepting the resignation from the date mentioned in the notice in terms of the request made by the officer. Is it that the officer is precluded from withdrawing the resignation if he has a change of mind before it becomes effective? This question has been clearly answered by the Supreme Court in paragraph 7 of **Punjab National Bank** (supra). Though the facts before the Supreme Court were that the resignation was thrust on the officer even before the date from which it was to be effective as per the notice, the aspect of withdrawal of resignation before it becomes effective is elaborately dealt with in paragraph 8 of the decision in **Punjab National Bank** (supra). We find that the petitioner continued in service till July 12, 2018, but, by that time, he had exercised his right to withdraw the resignation. Since the withdrawal letter was written and communicated before the resignation became effective, the resignation stands withdrawn, with the result that the respondent continues to be in the service of the bank. It is true that there is no specific provision in the regulations permitting the employee to withdraw the resignation. It is, however, not necessary that there should be any such specific rule. Until the resignation becomes effective on the terms of the resignation letter read with Regulation 20, it is open to the petitioner, on general principles, to withdraw his letter of resignation. Their Lordships have observed that in some cases of public services, this right of withdrawal is also made subject to the permission of the employer. There is no such clause here.

20. We, therefore, have no hesitation in holding that merely because the bank had communicated to the petitioner that his resignation is accepted and that he would be relieved from July 12, 2018, would have no bearing, as the petitioner chose to withdraw his resignation before it became effective. On the date when the petitioner withdrew his resignation, the petitioner was continuing in service. It needs to be emphasized that by the letter dated July 9, 2018, the petitioner was informed that the competent authority accepted the petitioner's request for withdrawal of resignation and permitted him to continue in the services of the bank. The petitioner, in any case was continuing in the services as his resignation was to take effect from July 12, 2018. Once having taken a decision to accept the petitioner's request for withdrawal of the resignation, the request for withdrawal did not survive for being accepted, therefore there was no question of terminating the service of the petitioner after such acceptance of the request for withdrawal. Moreover, having permitted him to continue in service, we do not find any justification in the respondents informing the petitioner by the impugned order that his resignation has been accepted and he stands relieved. Such action on the part of the respondents, in our opinion, is arbitrary and irrational. The petition deserves to succeed for the reasons aforestated.

21. Learned counsel for the bank relied upon the decision in **Raj Kumar** (supra). We are afraid that the decision is rendered in a different fact situation. Moreover, the well settled law laid down by the Supreme Court in **Raj Kumar** (supra) was referred to in **Punjab National Bank** (supra). **Punjab National Bank** (supra), as discussed earlier, dealt with a similar provision as in the present case, and therefore is directly applicable to the present facts. We are, therefore, of the view that the decision relied upon by the bank in **Raj Kumar** (supra) does not assist the case of the bank.

22. Resultantly, the writ petition succeeds and is accordingly allowed in terms of prayer clause (a).

23. The respondent–bank is directed to reinstate the petitioner with continuity of service but without back-wages. However, in the facts of the present case, the parties are left to bear their own costs.

24. The interim application is also disposed of.

(M. S. KARNIK, J.) **(CHIEF JUSTICE)**

Later :

Prayer for stay made by Mr. Piyush Shah, learned counsel appearing on behalf of the respondent nos.1 to 3, is considered and refused.

(M. S. KARNIK, J.) **(CHIEF JUSTICE)**