

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

Reserved on 30.09.2022

LPA-1003-2018 (O&M)

Pronounced on 12.10.2022

UCO Bank and others

..... Appellants

Versus

Jaswinder Kaur Bhatti

..... Respondent

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. Shekhar Verma, Advocate for the appellants.

Mr. Rahul Sharma-I, Advocate for the respondent.

JAGMOHAN BANSAL, J.

1. The Appellant-UCO Bank through instant appeal under Clause X of Letters Patent of this Court is seeking consideration of order dated 30.04.2018 passed by learned Single Judge of this Court in CWP No.19210 of 2015 whereby learned Single Judge has allowed petition of the respondent-writ petitioner and directed the present appellant to reinstate the respondent with all consequential benefits including monetary ones.

Brief Facts

2. Brief facts emerging from record and which are necessary for the adjudication of present appeal are that the respondent joined Oriental Bank of Commerce on 29.11.2011 and vide communication dated 28.01.2012 submitted her resignation which came to be accepted on 02.02.2012. The respondent joined Appellant-Bank on 02.01.2012 as Probationary Officer. The writ petitioner was initially posted at newly opened branch of appellant-Bank at village Dahisara, District Sonapat.

The respondent was deputed to Panchkula Branch on 08.07.2014 and

thereafter she was transferred to Ambala Cantt. Branch on 07.09.2014.

3. The appellant-Bank vide show cause notice dated 27.12.2013 (Annexure R-1), alleging dereliction in duty i.e. non-compliance of lawfull instructions of the Superior/ Controlling Authorities called upon the respondent to submit her explanation. The respondent on 06.02.2014 was served upon statement of imputations/lapses, to which respondent submitted her reply and appellant vide order dated 16.06.2014, in terms of UCO-Bank Officers Employees (Discipline & Appeal) Regulations, 1976 imposed penalty of censure.

4. The respondent vide letter dated 13.11.2014 (Annexure P-2) submitted her resignation wherein she categorically stated that she is misfit and resigning from the services by paying 3 months's salary. It is apt to mention here that she did not deposit 3 months' salary even though she categorically stated that she is resigning by paying 3 months salary in advance.

5. The Head Office of appellant vide letter dated 14.02.2015 accepted the resignation of the respondent. The Deputy Zonal Head vide communication dated 24.02.2015 (Annexure R-5) informed the Branch Head that respondent may be relieved from the services of the bank on receipt of this letter subject to compliance of following terms and conditions:

“(i) Dues to the Bank, if any, should be recovered from her before relieving.

(ii) Before relieving her from the service, it should be ensured that she has submitted APR (Annual

Property Return) for the Financial year 2013-14.”

6. The respondent vide email dated 28.02.2015 at about 14:27:37 p.m. was conveyed the formal decision of the Competent Authority. The respondent vide email dated 28.02.2015 at 6:52 p.m. expressed her intention to withdraw her resignation dated 13.11.2014. The respondent served hard copy of letter dated 28.02.2015 (Annexure R-7) in the branch of Appellant-Bank on 03.03.2015 but was relieved on 03.03.2015.

6 (I). The respondent vide letter dated 25.03.2015 (Annexure P-6) made a representation, praying withdrawal of her resignation. The Competent Authority vide order dated 13.06.2015 (Annexure P-7) declined request of the respondent and rejected her representation.

7. The respondent filed CWP No.19210 of 2015 before this Court which came up for consideration before learned Single Judge of this Court who vide order dated 30.04.2018 allowed writ petition of the respondent and directed Appellant-Bank to reinstate respondent with all consequential benefits including monetary benefits.

8. The Appellant-UCO Bank has come up in appeal before this Court seeking setting aside of order dated 30.04.2018 passed by the learned Single Judge of this Court.

Contention of the Appellant:

9. Learned counsel for the appellant contended that respondent at her choice submitted resignation and as per Clause (2) & (3) of Regulation 20 of UCO-Bank (Officers’) Service Regulations 1979 (for short ‘1979 Regulations’), there was no need to accept resignation of respondent-writ petitioner. The resignation in true sense was notice to

leave and an order accepting resignation is required where Disciplinary proceedings are pending against the employee. In the present case, the respondent at her sweet will tendered her resignation wherein it was categorically stated that she is paying 3 months' salary in advance and she is a misfit for the job. The resignation was dated 13.11.2014 and 3 months' period expired on 12.02.2015. The respondent could withdraw her resignation before the expiry of 03 months' notice period whereas concededly she opted to withdraw her resignation on 28.02.2015. The respondent remained absent during her entire 3 months' notice period. She also remained absent from 01.10.2014 to 02.12.2014. During 17.09.2014 to 13.11.2014 barring few days, she was absent from duty and after serving her resignation, she remained completely absent. The appellant was not supposed to pass any formal order as no disciplinary proceedings were pending against the respondent. Thus, as soon as the 3 months period expired from the date of resignation letter, the respondent was deemed to be relieved from services.

Learned counsel further contended that impugned order passed by learned Single Judge is based upon misreading of regulation 20 of 1979 Regulations. Learned Single Judge has held that communication dated 14.02.2015 and 24.02.2015 was *inter se* Bank and respondent was never communicated order of acceptance of resignation. The email dated 28.02.2015 is first communication to respondent, however, copy of order accepting resignation dated 14.02.2015 was still absent.

Learned counsel contended that Appellant-Bank was not required to formally accept resignation letter as well as make further

communication to employee because no Disciplinary proceedings were pending against her and she had given 3 months' notice, thus, on the expiry of the same, the resignation letter became effective and there was no need to consider letter dated 28.02.2015 whereby respondent expressed her willingness to withdraw her resignation dated 13.11.2014. Learned Single Judge has wrongly held that Appellant-Bank had not made available order of acceptance of resignation dated 14.02.2015 because communication was not required.

In support of his contentions, learned counsel has relied upon judgment of a two Judge Bench of Hon'ble Supreme Court in *Northern Zone Cultural Centre and another Vs. Vedpathi Dinesh Kumar (2003) 5 SCC 455* wherein Hon'ble Court has held that resignation becomes effective from the date of acceptance even though acceptance is not communicated.

Contention of the Respondent-Writ Petitioner:

10. Per contra, learned counsel for the respondent, supporting findings recorded by learned Single Judge vigorously contended that there is no deficiency in the order passed by learned Single Judge and writ petitioner was rightly ordered to be reinstated. The respondent-writ petitioner was under stress and she submitted her resignation whereas she did not deposit 3 months' salary which was required as per resignation letter. Thus, it was an incomplete resignation letter which could not be acted upon. The relation between employer and employee continued unless formally terminated by both sides, thus, the bank was supposed to pass formal order of acceptance of resignation whereas order accepting

resignation dated 14.02.2015 did not see light of the day. The appellant-Bank had placed on record copy of communication dated 24.02.2015 (Annexure R-5) which is an *inter se* Bank communication and cannot be treated as acceptance of resignation. The respondent had withdrawn her resignation on 28.02.2015, thus, Appellant-Bank was duty bound to reconsider case of respondent and permit her to continue in service. On the question of absence of respondent during October '2014 to March' 2015, learned counsel submitted that respondent was not having good health which refrained her from discharging her official duties. In support of her contention, the respondent submitted that she had applied for posting in or around Chandigarh which vindicates her stand that she was not able to travel to Ambala from Chandigarh and perform her official duties. Regulation 20 of 1979 Regulations does not talk of resignation, thus, no reliance could be placed upon regulation 20. The resignation is contemplated where disciplinary proceedings are pending and admittedly no proceeding was pending against respondent, thus, she was not covered by the provision of Regulation 20.

Discussion & Findings:

11. We have perused the records and heard arguments of learned counsel for the parties.

12. The conceded position emerging from the record is that the respondent was served upon show cause notice as well statement of imputation/lapses which culminated into punishment of censure. The respondent at her own submitted resignation dated 13.11.2014 wherein respondent stated that she is depositing 3 months' advance salary and she

is unfit for job. The 3 months's period expired on 12.02.2015 and respondent did not withdraw her resignation till 12.02.2015. The Head Office of Appellant-Bank accepted resignation on 14.02.2015, however, order of acceptance was never communicated and letter dated 24.02.2015 is *inter se* Bank communication and it was not addressed to the respondent. The respondent for the first time was communicated about acceptance of resignation on 28.02.2015 and on the very same day, the respondent opted to withdraw her resignation. Both the letters dated 28.02.2015 were communicated through email and communication from bank took place prior to communication of respondent to Bank. The respondent made representation after she was informed by the Bank and Appellant-Bank had rejected the representation of the respondent.

13. The entire controversy is centred around interpretation of Regulation 20 of 1979 Regulations, thus, it is inevitable to look at intent and scope of regulation 20 which reads as:

“(20) Termination of service.

1 (a) The Bank may terminate services of an Officer on giving him three months' notice or emoluments in lieu thereof in accordance with the guidance issued by the Government from time to time.

(b) Order of termination shall be made only after giving a reasonable opportunity to the Officer to make a representation to the Bank against the proposed order.

(c) The decision to terminate the services of an Officer employee will be taken only by the Chairman & Managing Director.

(d) The Officer is entitled to appeal within 15 days to the Board of Directors of the Bank against such order.

(e) If the Board decides to cancel his termination, the

emoluments paid to him in lieu of notice shall be adjusted against his salary.

(f) An Officer employee whose services are terminated, as above, shall be paid gratuity, PF and all other dues as may be admissible to him as per rules notwithstanding the years of service rendered.

(g) Nothing contained hereinabove, it will affect the Bank's right to retire an Officer employee under regulation 19(1).

2. An Officer shall not leave or discontinue his service in the Bank without first giving three months' notice in writing. The period of notice may be reduced or dispensed with by the Competent Authority.

3 (i) An Officer against whom disciplinary proceedings are pending shall not leave/discontinue or resign from his service in the Bank. It will take effect only after it is accepted by the Competent Authority.

(ii) Disciplinary proceedings shall deem to be pending if the Officer has been placed under suspension or he has been issued to 'Show Cause' until further orders are passed by the Competent Authority.

(iii) The Officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the final order is passed. The Officer will not receive any pay/or allowance after the date of superannuation. He will also not be entitled for payment of retirement benefits till final order is passed except his own contribution to CPF. ”

14. Learned Single Judge has allowed writ petition returning a finding that order accepting resignation was never communicated and respondent had withdrawn her resignation prior to communication of order accepting her resignation, thus, respondent-writ petitioner is entitled to be reinstated with all consequential benefits. Regulation 20 of

1979 Regulations is not applicable to writ petitioner. The operative portion of impugned order for sake of convenience is reproduced below:

“ 6. Before advertizing to the contentions of the parties, perusal of 1979 Regulation do not provide for resignation and its acceptance. In other words, there is no clause relating to resignation and its acceptance. Therefore, Regulation (20) sub para 2 of 1979 Regulation is not attracted insofar as resignation and its acceptance. If the petitioner had submitted resignation on 13.11.2014 and it was accepted on 14.2.2015 by the Head and further communication on 24.2.2015 (Annexure R-5) both the decisions are among the officials of the respondent-Bank and it was not marked to the petitioner so as to contend that resignation of the petitioner dated 13.11.2014 stands accepted on 14.02.2015. Insofar communication dated 28.2.2015 (Annexure R-6) is concerned, it is to be noted that withdrawal of the resignation is on same date i.e. on 28.2.2015. However, the respondents have not acted upon the acceptance of resignation with reference to 14.2.2015, 24.2.2015 and 28.2.2015 till 3.3.2015 the date on which petitioner was relieved vide Annexure P-5. While relieving the petitioner with reference to 14.2.2015, the Branch Manager has failed to comply the condition imposed in the communication dated 24.2.2015 (Annexure R-5). Even while relieving the petitioner, respondent-Bank have not made available the acceptance of resignation as stated by them namely 14.2.2015 by the Head Office. In other words, even to this day acceptance of his resignation has not been communicated to the petitioner. However, Branch Manager relied on the acceptance of

resignation dated 14.2.2015. In this background, respondent-Bank should have in all fairness considered the petitioner's withdrawal of resignation dated 28.2.2015. Learned counsel for the respondent relied on the decision of the Supreme Court in the case of Hitender Kumar Soni (supra). It is to be noted that Supreme Court while considering the matter relating to a Government service as is evident from the judgment, there is a reference to the various clauses of the Civil Services Rules. Therefore, the said judgment has no application to the present case for the reasons that in the present case 1979 Regulation do not provide for resignation. In other words, there is no provision relating to submission of resignation and its acceptance. Moreover, Supreme Court in the case of Nair Service Society v. Dr. T.Beermasthan and others; (2009) 5 SCC 545 held that while considering the service matter, it all depends upon the relevant service rules. Extract of para-48 of the said judgment reads as under

“48. Several decisions have been cited before us by the respondents, but it is well established that judgments in service jurisprudence should be understood with reference to the particular service rules in the State governing that field. Reservation provisions are enabling provisions, and different State governments can have different method of reservation. There is no challenge to the Rules, and what is challenged is in the matter of application alone. In our opinion the communal rotation has to be applied taking 20 vacancies as a block.” Therefore, decision cited by the respondent in the case of Hitender Kumar Soni (supra) is distinguishable with reference to 1979 Regulation. That apart even to this day, respondent-

Bank had not made available acceptance of resignation dated 14.2.2015 as stated by them. Even with reference to the document dated 14.2.2015 which being relied by the Branch Manager in his order dated 3.3.2015, it speaks of letter No. HO/PSD/PF/GF/2013-14/1744 dated 14.02.2015, therefore, it is only a letter and not the order relating to acceptance of resignation.

7. In view of these facts and circumstances, Annexures P-5 and P7 are set aside. Petition stands allowed. Petitioner is entitled to all consequential benefits including monetary. Benefits shall be extended by the respondent-Bank within a period of three months from today, while reinstating petitioner.”

15. From the reading of findings recorded by learned Single Judge and Regulation 20 of 1979 Regulations, we are of the considered opinion that as per regulation 20(2) an employee may leave or discontinue his services, however, he is required to serve 3 months' notice in writing. The period of notice may be reduced or dispensed with by Competent Authority. As per Clause (3) of Regulation 20, the Bank has authority to keep on hold resignation or notice to leave/discontinue, if Disciplinary proceedings are pending against an Officer. From the conjoint reading of Clauses (2) and (3), it come out that an employee at any point of time may leave the Bank or discontinue his services provided a 3 months' notice in writing is served upon the Bank. Regulation 20 (2) does not enjoin to deposit 3 months' salary even though as per Clause (1) of the Regulations, the Bank is required to pay 3 months' salary or give 3 months' notice if it wants to terminate services of an officer. As per Clause (3) of Regulation 20, the Bank has been

extended additional privilege to hold resignation or notice to leave of an employee where disciplinary proceedings are pending. In case no proceedings are pending, there is complete liberty to an employee to leave the Bank. It is also apt to mention here that inspite of pendency of disciplinary proceedings, the Bank may accept resignation of an employee. The intention of Regulations appears that in case of pendency of disciplinary proceedings, an employee should be available because proceedings may be pending against more than one Officer and resignation of an Officer may adversely affect proceedings against all or few of them. In case, no proceedings are pending, the Bank has no authority to hold resignation of an employee. The Regulations nowhere require formal acceptance of resignation where 3 months' notice is served, however, Bank is empowered to reduce the 3 months' notice. The requirement of acceptance of resignation is where proceedings are pending. Accordingly, we find force in the argument of learned counsel for the appellant that there was no need to pass and thereafter communicate formal order of acceptance of notice to leave or resignation as no disciplinary proceedings were pending against respondent. Clause (3) is meant for the advantage of Bank and it cannot be interpreted in a manner that condition of acceptance of resignation would be automatically applicable where an employee wants to leave or discontinue his services and no departmental proceedings are pending against him.

In the case in hand, the respondent served her resignation on 13.11.2014 and as per requirement of Regulation 20 (2), the respondent

expressed her willingness to pay 3 months salary in lieu of 03 months' notice. The respondent neither deposited 3 months salary in lieu of notice nor worked during the aforesaid period i.e. 3 months from the date of resignation. The contention of learned counsel for the respondent that she did not deposit salary as mentioned in resignation letter cannot advance cause of the respondent. The lapse on the part of respondent cannot become a blessing for her. It is settled proposition of law that nobody can take advantage of his mistakes, lapses or negligence. If we hold that respondent did not deposit 3 months' salary so resignation was incomplete, it would be travesty of justice and respondent would be awarded for her lapses. Thus, we hold and conclude that respondent was bound either to work during notice period or deposit her salary. She though opted to deposit 3 months' salary yet neither deposited salary nor worked during this period.

16. Learned Single Judge has held that regulation 20 (2) is not applicable because it is case of resignation. We find ourselves unable to agree with the aforesaid finding of learned Single Judge because leaving an organization or discontinue to work is as good as resignation. Mere non-mention of expression 'resignation' in regulation 20 (2) does not make regulation 20 (2) inapplicable to resignation. If it is held that there is no provision *qua* resignation, there would be chaos and an employee would be at liberty to withdraw resignation at any point of time. Therefore, as per our considered opinion Clause (2) of Regulation 20 is applicable in case of resignation because 3 months' notice to leave or discontinue services is nothing much less than resignation. A notice to

leave or discontinue services is as good as resignation. The requirement of 3 months notice further supports the fact that resignation would fall within ambit and scope of Clause (2) of the Regulation 20.

Even otherwise, if it is held that Clause (2) of Regulation 20 is not applicable, the general principles of service jurisprudence would be applicable. There are so many services especially in private sector where there are no particular rules/regulations governing the services of an employee. In such a situation, it cannot be held that an employee cannot resign. If findings of learned Single Judge as well argument of learned counsel for the respondent is accepted, it would mean that an employee cannot submit his resignation even though because of one or another reason, he is interested to resign. As per respondent, an employee can serve 3 months' notice to leave or discontinue his services but he cannot mention in his letter that he is going to resign. The outcome of writing in the letter that after 3 months he is not going to continue his services or he is going to leave services is as good as resignation. The outcome of all the expression would be snapping of relation of employer and employee which would deprive an employee from the emoluments and employer from services of an employee.

17. A two Judge Bench of Hon'ble Supreme Court in ***Vedpathi Dinesh Kumar (supra)*** has held that services of an employee stand terminated from the date on which letter of resignation is accepted and in the absence of a law or statutory rules governing the conditions of service, it will not be open to public servant to withdraw his resignation after it is accepted. In that case, the resignation was dated 18.11.1988 and

it was accepted on 18.11.1988 itself, however, acceptance was communicated on 01.12.1988 i.e. after 13 days. The Hon'ble Court held that there is no undue delay so as to make an inference that there is no acceptance of resignation. Undue delay in intimating the public servant may justify an inference that resignation has not been accepted. The non-communication of acceptance does not make resignation inoperative provided there is in fact acceptance before withdrawal. The Hon'ble Court has noticed its earlier judgment in ***Raj Kumar Vs. Union of India (1968) 3 SCR 857*** wherein Court has held that resignation was accepted within a short time. In **Raj Kumar's** case, the resignation was dated 30.08.1964 and it was accepted on 31.10.1964 i.e. after a gap of 2 months.

18. In the case in hand, the resignation is dated 13.11.2014 and respondent had expressed her intention to pay 3 months' salary in advance, thus, there was intention of respondent to resign from the date of communication dated 13.11.2014. The respondent neither paid 03 months' salary nor worked during notice period, thus, inevitable conclusion is that respondent left her job on 13.11.2014. In any case, if it is concluded that 3 months' notice was indispensable and respondent ought to be considered in service till the expiry of 3 months from 13.11.2014 still 3 months' notice period expired on 12.02.2015. The respondent concededly expressed her intention to withdraw resignation on 28.02.2015 and by the said date, Head Office of the Appellant-Bank had already accepted notice of resignation though order of acceptance dated 14.02.2015 was not communicated to respondent and she was

informed through email on 28.02.2015. The Appellant-Bank as per Regulations governing the services of respondent was not required to pass formal order and thereafter communicate to the respondent. Nevertheless, Bank opted to pass order and informed the respondent vide communication dated 28.02.2015. The respondent in the evening hours, on receipt of formal communication dated 28.02.2015 opted to withdraw her resignation which cannot be accepted because respondent at the most could withdraw her resignation within 3 months from the date of resignation. We are also of the opinion that respondent by not working during notice period especially when she, as offered in resignation, did not deposit 3 months salary, actually left the Appellant-Bank on 13.11.2014 and subsequent withdrawal is of no solace. The communication dated 28.02.2015 made by respondent to Appellant-Bank cannot come to her rescue.

19. In view of our above findings, we are of the considered opinion that order dated 30.04.2018 of learned Single Judge cannot be sustained. Accordingly, order dated 30.04.2018 passed by learned Single Judge is hereby set aside and appeal of the Appellant-Bank is allowed, resultantly the writ petition filed by the respondent stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

12.10.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>