

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26896-2022

Date of Decision: 23.11.2022

Yogesh Aggarwal

..... Petitioner

Versus

National Institute of Technology and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Anurag Goyal, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to accept his resignation dated 03.11.2022 (Annexure P-9) and to accept/approve his joining dated 25.10.2022 (Annexure P-7) along with all other consequential benefits; as also seeking a writ in the nature of prohibition restraining the respondents from forcing the petitioner to withdraw his earlier writ petition, i.e. CWP-9356-2001 pending in this Court.

Learned counsel for the petitioner has submitted that the petitioner was already working in the respondents-Institute on the post of Lecturer since 1998 against the leave vacancy. He continued as such because of some litigation between the parties. In the year 2022, the respondent-Institute advertised the post of Assistant Professor Grade-I (Civil Engineering) on regular basis. The petitioner had applied for the said post, after getting the due permission from the respondents-Institute. Having

participated in the process of selection and having been found suitable, the petitioner was selected for the said post on regular basis. Pursuant to that, the petitioner was issued appointment letter dated 25.10.2022. Since the petitioner has to join the duty on regular basis, therefore, he has to be relieved from his previous assignment against the leave vacancy. The petitioner had requested the respondents-Institute to relieve him from the post against leave vacancy so as to join the post of Assistant Professor Grade-I (Civil Engineering) on regular basis. However, the respondents-Institute had not done the needful. Thereafter, the petitioner had submitted even a resignation from the previous assignment. Even that has not been accepted. Learned counsel has further submitted that since the petitioner had been working with the respondent-Institute for more than 24 years, therefore, under rules, he would be entitled to certain benefits for the past service. Therefore, he had submitted a technical resignation to the respondent-Institute. However, even that resignation has not been accepted so far. Learned counsel has further submitted that the respondent-Institute has given time for joining the post against the newly issued appointment on regular basis upto 23.11.2022.

Notice of motion.

On the asking of the Court, Mr. Amarjit Virk, Advocate, accepts notice on behalf of respondents No.1 and 2, whereas Mr. Anil Chawla, Advocate, accepts notice on behalf of respondent No.3.

Learned counsel for the respondents-Institute has submitted that since the petitioner has been working in the respondent-Institute for more than 24 years, therefore, the respondents-Institute is not against the

petitioner; as such. However, since as per his previous terms of appointment against leave vacancy, he was required to give one month notice or to deposit salary for a period of one month, in case of resignation. Therefore, the petitioner is required to deposit salary of one month to get his resignation accepted. Since, that was not deposited, therefore, the resignation of the petitioner has been rejected. However, if the petitioner deposits the salary of one month, then the resignation of the petitioner can still be accepted.

Learned counsel for the petitioner has submitted that he will contest his claim regarding all benefits of his past service separately, however, to get his resignation accepted, he is ready to deposit the salary of one month, though the same is not required in the present case.

Be that as it may, the petitioner is granted permission to deposit the salary for a period of one month. Once, the said amount is deposited or the cheque for the same is submitted by the petitioner, then the respondents-Institute is directed to accept the resignation of the petitioner and to permit the petitioner to join on the new assignment. Needless to say that, at this stage, this Court is not deciding upon the claim of the petitioner qua the benefits of his past service. The petitioner would be at liberty to agitate the same separately, if the need be.

The present petition is allowed in the above terms.

(RAJBIR SEHRAWAT)
JUDGE

23.11.2022
adhikari

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No