

2023:PHHC:064940

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

CWP-9450-2023 (O&M)
Date of decision: 05.05.2023

Ankit

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. H.C.Arora, Advocate
and Ms. Sunaina, Advocate for the petitioner
Mr. Navdeep Chhabra, Sr. DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. On 03.05.2023, the following order was passed:-

“1. The petitioner prays for the issuance of a writ in the nature of certiorari to quash the order dated 23.02.2023 passed by the Director, Public Instruction (Secondary Education), Punjab.

2. The petitioner was directly recruited as Mathematics Master in the year 2021. In order to progress in life, he after getting permission from the competent authority applied for the post of the Assistant Professor (Colleges) pursuant to the government recruitment notice issued on 19.10.2021. He was selected for the said post. Thereafter, he was issued an appointment letter on 03.12.2021, hence he submitted his resignation letter from the position of Math Master. Meanwhile, because an interim order was passed by the Court, issuance of the appointment to the post of Assistant Professor was stayed. Hence, he requested for withdrawal of the resignation letter vide communication dated 10.12.2021. Since then, he has been running from pillar to post for the withdrawal of his resignation letter.

3. *Forced by the unfortunate circumstances, the petitioner filed the writ petition which was disposed of with direction to the respondents to take a reasoned decision. The Director, Public Instruction has relied upon Rule 7.5(5) of Chapter 7 of the Punjab Civil Services Rules, Volume-I, Part-I which reads as under:-*

“(5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government employee resigns his service or post with a view to taking up an appoint in or under a private commercial company or in or under a corporation or company wholly or substantially owned or controller by the Government or in or under a body controller or financed by the Government.”

4. *The learned counsel representing the petitioner contends that the aforesaid rule is not applicable as the petitioner applied for the recruitment pursuant to a recruitment notice issued by the Punjab Government. He submits that Rule 7.5 will be applicable to the petitioner. It is further contended that the resignation submitted by the petitioner has never been accepted by the competent authority until now.*

5. *Notice of motion.*

6. *On the request of this Court, Mr. Vikas Arora, Assistant Advocate General, Punjab,*

accepts notice on behalf of the State.

7. *Prima-facie, the Director, Public Instruction (Secondary Education) has misinterpreted Rule 7.5(5). This rule pertains to a scenario where a Government employee tenders his resignation from his position or service in order to accept an appointment in a private commercial company, corporation, or a government-owned or controlled company, or in a government-controlled or financed organization.*

8. *As already noticed, the petitioner applied for the post pursuant to the recruitment notice issued by the Punjab Government. Moreover, it is evident that the petitioner's request for withdrawal of his resignation has been kept pending for a period of nearly 1 ½ years.*

9. *Considering the aforesaid facts, it is deemed appropriate to direct the Director, Public Instruction(Secondary Education) to appear before the Court and clarify his conduct.*

10. *List, in the urgent list, on 05.05.2023.”*

2. Sh.Tejdeep Singh Saini, PCS, Director, Secondary Education (Secondary), Punjab, and Sh.Navdeep Chhabra, Sr. DAG, Punjab, are present in the Court. They have produced a copy of the order dated 05.05.2023 while recalling the order dated 23.02.2023. On being pointed out by the learned counsel representing the petitioner, Sh.Tejdeep Singh Saini, states that the last sentence of the order, which reads as under, be treated as withdrawn:-

“However, the said period shall not be treated

as qualifying service period for any purpose.”

3. Learned counsel representing the petitioner submits that in view of the subsequent development, the writ petition is rendered infructuous and the same is disposed of as such.

4. Before disposing of this case, the Court feels compelled to make certain observations. It is well known that only a fortunate few have the opportunity to serve the State as an employee. Among those few, some have the privilege to serve the public. However, it is important to remember that an appointment to a civil post is not a position of privilege but rather a means to serve the public. The Government officers and civil servants, who hold the decision making powers are expected to address the grievances of the people, who face unfortunate and unjust circumstances. Without this intent, cases like the present one will continue to come before the Courts. It is reasonable to expect that one day a better sense of duty would prevail and grievances of the public will be addressed at the outset.

5. All the pending miscellaneous applications, if any, are also disposed of.

05.05.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE