

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

CWP-9740-2023 (O&M)

Date of decision: 08.05.2023

Jagdish Kumar

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. H.C.Arora, Advocate for the petitioner

Mr. Navdeep Chhabra, Sr. DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. In an identical writ petition i.e CWP-9540-2023 titled as
'Ankit vs. State of Punjab and others' decided on 05.05.2023, the
following order was passed:-

“ 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.”

2. The petitioner herein is also identically situated. In his case also permission to withdraw the resignation was refused.

3. Sh.Navdeep Chhabra, Sr. DAG, Punjab, has entered appearance pursuant to supply of the advance copy of the writ petition

and submits that vide the order dated 06.05.2023, the impugned order dated 23.02.2023 has been recalled and the petitioner has been permitted to withdraw his resignation and he shall be allowed to rejoin on the post of Math Master at Govt. Senior Secondary School Sito Gunno, District Fazilka.

4. Learned counsel representing the petitioner submits that the intervening period from the date when the petitioner was relieved from the school and the date he will be permitted to rejoin on the post of Math Master has not been condoned.

5. Learned State counsel, on instructions from Sh.Tejdeep Singh Saini, Director Secondary Education (S), Punjab, submits that formal order to that effect shall be passed as has been passed in the case of the petitioner in CWP-9450-2023.

6. Keeping in view the aforesaid facts, the learned counsel representing the petitioner submits that no further order is required to be passed.

7. Disposed of.

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

08.05.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE