

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

CWP-8164-2023

Date of decision : 11.05.2023

Jaswant Kumar

...Petitioner

Vs.

Union of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ashok Sharma Nabhewala, Advocate
for the petitioner.

Ms. Anita Baliyan, Advocate
for the respondent-Union of India.

MANOJ BAJAJ, J.

By means of this writ petition filed under Article 226 Constitution of India petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the office order dated 31.12.2013 (Annexure P-1), whereby the resignation tendered by him has been accepted and order dated 24.09.2015 (Annexure P-6) passed by Deputy Commandant, vide which the request of the petitioner for re-joining in the BSF has been declined.

Learned counsel for the petitioner submits that the petitioner had joined BSF as Constable w.e.f.15.04.2011, who performed his duties sincerely, however, while being posted at 141 Battalion Madhopur, Pathankot, District Gurdaspur, he suffered an injury on 12.07.2013 and for treatment he was initially admitted to BSF Hospital, Madhopur and later, he was referred to Civil Hospital, Pathankot. Learned counsel has drawn the attention of the Court to communication dated 15.02.2013 (Annexure P-2) to contend that the petitioner made a request to the Deputy Commandant, Madhopur to allow him to go home for medical treatment and reserved his rights to resume the duties

after regaining the fitness. Learned counsel has drawn the attention of the Court to the impugned decision dated 31.12.2013 (Annexure P-1) and submitted that the Commandant wrongly passed the order accepting his resignation, whereas the petitioner had never tendered the resignation. He further refers to Rule 19 of Border Security Force Rules, 1969 to contend that the acceptance of resignation was in violation of this Rule. He prays that the impugned decision warrants interference by this Court.

On the other hand, learned counsel for respondent appears on advance notice and submits that the order dated 31.12.2013 (Annexure P-1) accepting the petitioner's resignation is in fact based upon his own hand written resignation letter dated 18.12.2013. She has produced the resignation letter and a copy of the same is given to Mr.Ashok Sharma Nabhawala, learned counsel for the petitioner.

A perusal of the petitioner's resignation makes it clear that he tendered resignation subsequent to the request dated 15.12.2013 (Annexure P-2) which stands acted upon by the competent authority, and further, the grievance in this regard has been raised by the petitioner after a long unexplained delay of approximately ten years.

In view of the above, this Court is not inclined to exercise extra ordinary writ jurisdiction under Article 226 Constitution of India.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

11.05.2023

vanita	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No