

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

RSA No.2207 of 2018 (O&M)

Date of Order:19.09.2023

Dr. J.N.Verma**.Appellant****Versus****State of Haryana and others****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL****Present: Mr. Shailender Singh Gill, Advocate
for the appellant.****Ms. Vibha Tewari, AAG, Haryana.****ANIL KSHETARPAL, J**

1. The correctness of the concurrent findings of fact arrived at by the courts below is assailed by the plaintiff in this second appeal.

2. The plaintiff's suit for grant of decree of declaration that the order dated 08.12.2009, while accepting the appellant's resignation dated 16.08.1999, is illegal, null and void and therefore, the appellant is entitled to be reinstated with full back wages, continuity of service, seniority, promotion and other consequential benefits.

3. He was serving as a Dental Surgeon in General Hospital, Kaithal. He claims that he was suffering from Hepatitis-B and his 9 years daughter was also suffering from brain hemorrhage. He submitted his resignation on 16.08.1999, however, he withdrew the same in November, 1999. Thereafter, he has been making representations for permitting him to join but the resignation has been accepted on 08.12.2009, which is illegal.

4. The defendants while contesting the suit submitted that the appellant submitted his resignation on 16.08.1999, however, after a period of

3 months he filed an application for the withdrawal of his resignation which was not accepted by the competent authority i.e. Financial Commissioner-cum-Secretary to Government, Haryana vide order dated 18.05.2000, Ex.PK. It is submitted that thereafter the appellant started his private practice and the order dated 08.12.2009 is in the continuation of the previous order passed on 18.05.2000.

5. Both the courts, as already noticed, dismissed the plaintiff's suit.

6. The learned counsel representing the appellant submits that the appellant had to resign from the service due to compelling circumstances and therefore his withdrawal should have been accepted. He further submits that once the application for withdrawal of the resignation was filed before its acceptance, the appellant was entitled to be reinstated.

7. This court has considered the submissions of the learned counsel representing the appellant.

8. On the request of the court, the learned counsel representing the appellant has produced copy of Ex.PK dated 18.05.2000, which reads as under:-

“After careful consideration, Govt. has decided that after the expiry of notice period specially then the officer has left the job the request for withdrawal could not be accepted. Dr. Verma may be informed accordingly.”

9. Both the courts have found that the aforesaid order was communicated to the appellant. It has also come on record that the appellant started his private practice. He filed a suit only on 01.07.2014 in order to challenge the order dated 08.12.2009. In the facts and circumstances of the case the courts on preponderance of evidence have concurrently recorded a

finding of fact that the appellant was not permitted to withdraw the resignation as he had himself walked away from the job immediately and thereafter he never reported back.

10. In the facts of the present case, the order passed on 08.12.2009 is, in fact, in continuation of order dated 18.05.2000. The appellant voluntarily submitted his resignation may be due to the compelling circumstances prevailing at that time, however, after a passage of such a long time, he cannot be permitted to pray for the re-entry with the other consequential benefits particularly when he filed the suit for the same after a period of 15 years from the date he walked away from the job, after submitting his resignation.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

12. Dismissed.

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

September 19, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO