

19.04.2024
Item No. 25
Ct. No. 238
AKG

WPA 23437 of 2023
Dr. Titov Banerjee
Vs.
Indian Centre for Advancement of Research
and Education Birbhum, Society (ICARE) & Anr.

Mr. D. K. Samanta,
Mr. Ashis Kumar Paul

...for the Petitioner

Mr. Saikat Chatterjee,
Mr. Puranjan Pal

...for Respondent No. 2

Let the supplementary affidavit filed by the petitioner be kept with the records.

The petitioner was initially appointed as a lecturer in the Department of Medical Engineering at Indian Centre for Advancement of Research and Education (ICARE) at Birbhum, respondent no. 2 (the Institute, in short).

On December 3, 2021, the petitioner tendered his resignation with a request to release him while serving as an Assistant Professor at the institute.

It is not in dispute that after tendering the resignation, though the same was not accepted, the petitioner joined a different private organization in Hyderabad.

The petitioner suggests that the Institute neither accepted his resignation nor issued any release order

in his favour to continue with his employment in Hyderabad.

In such circumstances, by a letter dated June 19, 2023, the petitioner sought to join respondent no. 2 again. Respondent no. 2, however, declined to allow the petitioner to resume his duties.

The petitioner vehemently argues that it cannot be said that the petitioner has resigned since his resignation was not accepted by the Institute. Therefore, the petitioner should be allowed to rejoin his duties at the Institute.

To buttress this argument, the petitioner relies upon the judgment reported at **AIR 1989 SC 1083 (Punjab National Bank Vs. P. K. Mittal)**.

On behalf of the Institute, it has been submitted that the petitioner left his job without giving any intimation or seeking any permission from the college.

The Institute submits that it was always ready to issue a release order in favour of the petitioner but the petitioner was not serious in obtaining a release order from the Institute. In place of the petitioner, the Institute has already appointed a duly qualified person. The financial condition of the institute does not permit to employ to another Assistant Professor.

I am of the view that in the aforesaid facts, no order can be passed directing the Institute to allow the petitioner to resume his duties.

There cannot be quarrel with the proposition that unless a resignation is accepted by the employer, it cannot be said that the employee has resigned. This is because an employer is not bound to accept a resignation letter if there are justified grounds not to release the employee. The said proposition does not necessarily imply that an employee, if his resignation is not accepted, can come back to rejoin after serving elsewhere for an indefinite period. The petitioner tendered his resignation and admittedly, his resignation was not officially accepted by the college. The fact remains that the petitioner, without waiting for the acceptance of the resignation, joined a different organization and after serving there for about one and half years, sought to come back.

The college, however, submits that it is ready to issue a release order in favour of the petitioner as and when the petitioner wishes to receive the same.

It is, however, the discretion of the Institute to allow the petitioner to resume his duties. It has been fairly submitted by the Institute that the petitioner is an efficient and qualified teacher. If the petitioner

approaches the college seeking his re-employment, the same may be considered by the college at the earliest.

WPA 23437 of 2023 is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)