HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE SECOND DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT APPEAL No.654 OF 2022

Writ Appeal under clause 15 of the Letters Patent filed against the order dated 27.09.2022 in Writ Petition No.24607 of 2022 on the file of the High Court.

Between:

1. The Telangana State Wakf Board, Haj House, Razzaq Manzil, Nampally, Hyderabad, represented by its Chairman
2. The Chief Executive Officer, The Telangana State Wakf Board, Haj House, Razzaq Manzil, Nampally, Hyderabad
3. The Officer on Special Duty-II, The Telangana State Wakf Board, Haj House, Razzaq Manzil, Nampally, Hyderabad

...APPELLANTS/RESPONDENTS

AND

MD Dastagir, S/o Late Mohd Qasim, aged about 48 years, R/o 10-111/1, Brahmanwadi, Shamshabad, Ranga Reddy District- 501218

...RESPONDENT/RESPONDENT

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of the Order Passed by the Honble Justice Smt. P.MADHAVI DEVI in W.P.No.24607 of 2022, dated: 27/09/2022.

Counsel for the Appellants: SRI G. VIDYA SAGAR,
SENIOR COUNSEL REPRESENTING Mr. ABU AKRAM

Counsel for the Respondent: Mr. MIRZA MAHMOOD ALI BAIG

The Court made the following: JUDGMENT

HON'BLE SHRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SHRI JUSTICE NAMAVARAPU RAJESHWAR RAO

W.A.No.654 of 2022

JUDGMENT: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

Aggrieved by the order dated 27.09.2022 passed in W.P.No.24607 of 2022 by the learned Single Judge, the present writ appeal has been preferred.

2. Heard Sri G.Vidya Sagar, learned Senior Counsel, representing Sri Abu Akram, learned counsel for the appellants and Sri Mirza Mahmood Ali Baig, learned counsel appearing for the respondent.

3. It is the case of the appellants that the respondent was working as Superintendent and he has tendered resignation on 07.02.2022 and the appellants have accepted the said resignation *vide* letter dated 19.02.2022 with effect from 07.02.2022 and accordingly, relieved the respondent from service. Therefore, the respondent has submitted a representation on 16.03.2022 seeking to permit to withdraw

his resignation. As the resignation was already accepted, the appellants have not permitted the respondent to join duty and accordingly, passed rejection order on 30.04.2022. Aggrieved by the said rejection order, the respondent has filed the present writ petition. Without appreciating any of the contentions raised by the appellants, learned Single Judge *vide* order dated 27.09.2022 allowed the said writ petition by setting aside the impugned rejection order dated 30.04.2022 and also set aside the acceptance of resignation dated 19.02.2022 and directed the appellants to continue the respondent in service as Superintendent with all consequential benefits. Hence, the present writ appeal.

4. Learned Senior Counsel appearing for the appellants had placed reliance on the judgment of the Apex Court in *Reserve Bank of India and another vs. Cecil Dennis Solomon and another*[1] and contended that when once the resignation is accepted, the question of withdrawing the said resignation is

[1] (2004) 9 SCC 461

not permissible and the respondent has tendered unconditional resignation *vide* letter dated 07.02.2022 and the appellants have accepted the same on 19.02.2022 and the learned Single Judge ought not to have allowed the writ petition by directing the appellants to continue the respondent as Superintendent with all consequential benefits. Learned counsel had further placed reliance on the judgment of the Apex Court in *Jaipal Singh vs. Sumitra Mahajan(SMT) and another*[2] and contended that there is no time prescribed for accepting the resignation and when it comes to voluntary retirement, some time limit has prescribed for accepting such resignation and hence the appellants were justified in accepting the resignation submitted by the respondent *vide* proceedings dated 19.02.2022 and the respondent was trying to withdraw the resignation after it has been accepted. When once the relationship of master and servant between the appellants and respondent has come to an end, the

[2] (2004)4 SCC 522

question of continuing the respondent as Superintendent does not arise. Learned counsel had further placed reliance on the judgment of the Apex Court in *Uco Bank and others vs. Sanwar Mal*[3] and contended that when once the resignation is accepted, the question of withdrawing the said resignation does not arise. Therefore, appropriate orders be passed in the writ appeal by setting aside the order passed by the learned Single Judge.

5. Learned counsel appearing for the respondent had contended that in the alleged resignation letter dated 07.02.2022, the respondent has clearly stated that he is going to submit his resignation for the post of Superintendent, but he never stated that he is resigning from the post of Superintendent. As the respondent was suffering from various ailments, he submitted a letter on 07.02.2022 expressing his intention to resign in future, but the said letter dated 07.02.2022 cannot be treated as resignation letter and

[3] (2004) 4 SCC 412

the appellants have accepted the said letter as if the respondent has tendered his resignation on 07.2.2022 and the appellants have also accepted the same *vide* proceedings dated 19.2.2022 with retrospective effect, which is not permissible as per Rule 30 of the State and Subordinate Service Rules. Therefore, learned Single Judge was justified in setting aside the rejection order passed by the appellants and rightly directed the appellants to continue the respondent as Superintendent. Therefore, there are no merits in the writ appeal and the same is liable to be dismissed.

6. Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that a perusal of the resignation letter dated 07.02.2022 makes it very clear that the respondent had submitted the said letter stating that he is going to submit his resignation. When the respondent has not submitted his resignation on 07.02.2022, the appellants were not justified in accepting the said

resignation letter *vide* proceedings dated 19.02.2022 and the appellants were also not justified in accepting the resignation with retrospective effect i.e., with effect from 07.02.2022. A perusal of Rule 30 of the State and Subordinate Service Rules makes it clear that resignation cannot be accepted with retrospective effect, unless he is on duty, from the date on which he is relieved of his duties in pursuance of such acceptance and in case he is on leave, from the date of communication of such acceptance to the member or if the said authority so directs, from the date of expiry of leave. A perusal of the alleged resignation letter also would make it very clear that the respondent is no where stated that he is resigning, but he expressed his intention to resign in future. However, such statement of the letter dated 07.2.2022 cannot be treated as resignation. The respondent has expressed his opinion that he is going to submit his resignation only. Therefore, the learned Single Judge was justified in allowing the writ petition in favour of the

respondent. Hence, this Court is not inclined to interfere with the order passed by the learned Single Judge.

7. Accordingly, the Writ Appeal is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

SD/-K. SHYLESHI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

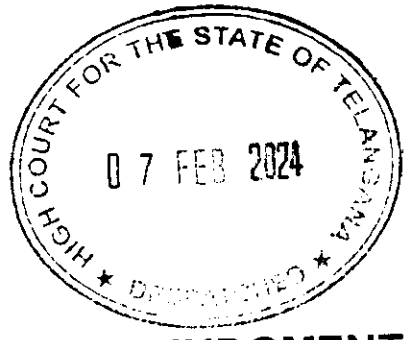
To,

1. One CC to Mr. ABU AKRAM, Advocate [OPUC]
2. One CC to Mr. MIRZA MAHMOOD ALI BAIG, Advocate [OPUC]
3. Two CD Copies

MP
BS

HIGH COURT

DATED:02/01/2024



JUDGMENT

WA.No.654 of 2022

DISMISSING THE WRIT APPEAL
WITHOUT COSTS

(5) Copies
8m
7/2/24