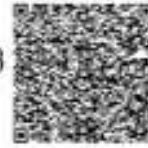


IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

2024.PHHC:070982-DB



LPA-836-2024 (O & M)
Date of Decision: 20.05.2024
.....Appellant(s)

Sushant Vatsa

Versus

Union of India and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Rishav Sharma, Advocate,
for the appellant.

Mr. Sudhir Nar, Sr. Panel Counsel,
for respondent No.1.

Mr. Arun Gosain, Advocate,
for respondent-2.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

CM-2024-LPA-2024

1. Application for condonation of delay of 26 days in re-filing the appeal is allowed, in view of averments made in the application duly supported by affidavit of the counsel.

2. Delay condoned.

3. CM stands disposed of.

CM-2025-LPA-2024

4. Application for condonation of delay of 9 days in filing the appeal is allowed, in view of averments made in the application duly supported by affidavit of the counsel.

5. Delay condoned.

6. CM stands disposed of.

Main Case

7. Consideration in the present letters patent appeal is to the order dated 28.11.2023 passed by the learned Single Judge in CWP-26467-2023, Sushant Vatsa vs. UOI and others whereby, the learned Single Judge has dismissed the writ petition by coming to the conclusion that the petitioner never retained lien on the post in question and, therefore, he has no right or claim on the post. Resultantly, the present appeal has been filed.

8. It was noticed by the learned Single Judge that vide e-mail dated 26.05.2022, it had been communicated to the writ petitioner that the institute will not be able to provide the lien considering the limited number of staff. Copy of the same has been placed on record today itself, which was in pursuance of his application dated 26.05.2022 (Annexure A-4). The respondent No.2-Institute, thus, had communicated that the institute will not be able to provide the lien considering the limited number of staff and the relieving was under process.

9. It is a matter of record that the respondent No.2 accepted the technical resignation of the appellant who was working as Assistant Engineer (Electrical) and was relieved on 30.05.2022 and all outstanding dues were to be paid as per the Institute norms. Apparently, the advertisement (Annexure P-13) was issued by the respondent-Institute wherein, the posts of Assistant Engineer (Electrical) were sought to be filled up. The online application had to be submitted till 26.09.2022.

10. It is not disputed that the appellant is continuing to work at IIT, Hyderabad after having given his resignation. In pursuance of the resignation submitted and only on account of advertising of the posts as such, the writ petition has been filed seeking enforcement of his right as such to come back and join. We are, thus, of the considered opinion that having opted for greener pastures with respondent No.3, he cannot as such have any vested right to retain his lien on the post from which he had voluntarily resigned. Also, the respondent No.2 is a

society and as per the case set up in the writ petition in Para No.10, it has been specifically pleaded that the bylaws had been notified in the year 2019 and there is no specific provision for retention of lien of regular employees. A writ of mandamus is only maintainable if there is a legal right based on a statutory rule. In such circumstances, once it is the case of the appellant himself that there is no enforceable right on the basis of which he can claim lien, we are of the considered opinion that the learned Single Judge did not err in any manner in not entertaining the writ petition.

11. Accordingly, finding no merit in the present appeal also, the same stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

20.05.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No