

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.216

CWP No.2927 of 2020
Date of Decision: 25.01.2024

Sandeep
Versus
Pt. B.D.Sharma University of Health Sciences,
Rohtak and others
.... Petitioner
... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rajesh K.Kataria, Advocate for the petitioner.
Mr. Harmanjot Singh Gill, Advocate and
Ms. Preeti Sharma, Advocate for the respondents.

TRIBHUVAN DAHIYA, J. (ORAL)

This petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to allow the petitioner to rejoin service as Laboratory Technician, on the ground that he had withdrawn his resignation from the post.

2. Facts relevant for deciding the case are:
- 2.1. The petitioner was appointed as Laboratory Technician in the respondent-University, vide letter dated 01.08.2011, Annexure P-1, and joined as such. As per his terms of appointment, the service was terminable on one month's notice.
- 2.2. Later, on the recommendation of Haryana Staff Selection Commission, the petitioner was selected as Trained Graduate Teacher (TGT) Science in the Elementary Education Department, Haryana, and issued a letter of appointment, dated 20.12.2018, Annexure P-2. Thereupon, he

resigned from the post of Laboratory Technician with immediate effect, vide communication/letter dated 28.12.2018, Annexure P-3. However, the reason for resignation given by him was, '*some personal and family problems*' due to which he was unable to work properly. After submitting the resignation he joined the Department as TGT Science, and has been working there ever since.

2.3. The University, vide letter dated 28.01.2019, Annexure P-4, directed him to deposit three months' salary *in lieu* of the notice period within a week, so that his resignation could be accepted. The petitioner responded to the same vide protest letter, dated 27.03.2019, Annexure P-5, stating that as per the terms of appointment, only one month's salary was required to be deposited by either side in case of termination or resignation from service.

2.4. After about eight months of submitting the resignation, the petitioner wrote another letter, dated 03.08.2019, Annexure P-6, intimating the University that all his problems had been solved and he should be considered for the job again on the basis of previous performance and achievements. Assurance was also given that no interruption would be caused while performing duties by him.

2.5. The University responded vide letter dated 11.09.2019, Annexure P-7, directing him to give an affidavit whether he had joined any other post after submitting the resignation. The petitioner, accordingly, gave an affidavit dated 11.09.2019, Annexure P-8, informing the University for the first time that after submitting the resignation he had joined as TGT Science in the Elementary Education Department on 01.01.2019. It was also claimed that as his resignation had not been accepted so far, he

wanted to rejoin the previous post of Laboratory Technician. A

request for permission to rejoin the post on the basis of previous performance and achievements was again made by the petitioner, vide letter dated 21.11.2019, Annexure P-9.

2.6. The University, on its part, directed the petitioner to deposit one month's salary within a week, vide letter dated 07.01.2020, Annexure P-10, so that the resignation could be accepted and No Dues Certificate (NDC) could be issued.

2.7. With this background, the instant petition was filed.

2.8. During pendency of the petition, the University approved the petitioner's resignation from the post of Laboratory Technician with effect from 28.12.2018, vide order dated 12.06.2023, Annexure R-1.

3. Learned counsel for the petitioner contends that the petitioner is entitled to rejoin the post of Laboratory Technician since he had withdrawn the resignation letter, dated 28.12.2018. The letters, dated 03.08.2019 and 21.11.2019, should be read as communications of withdrawal of resignation by him. And once the resignation stood withdrawn, he becomes entitled to rejoin the post.

4. Learned counsel for the respondent-University, on the contrary, contends that once the petitioner resigned from the post and the resignation was duly accepted by the University with effect from 28.12.2018, the same could not have been withdrawn. Besides, it is only an afterthought that the plea of withdrawal of resignation has been taken by the petitioner, as he was never interested in joining the post. Also, he concealed true facts and joined as TGT Science in the Elementary Education Department without any intimation to or permission from the University. Not only that, the resignation was submitted on false pretext of personal and family problems,

and the request for rejoining was also made on the false plea of the family issues having been solved. Therefore, he has no right to the post in question.

5. Heard.

6. It is an admitted position on record that the petitioner tendered his resignation from the post of Laboratory Technician on 28.12.2018 with immediate effect. The same was accepted by the University with effect from that date, vide office order dated 12.06.2023, which has not been challenged by him. Therefore, no exception can be taken to it. Besides, he resigned with immediate effect, and not from any later date on expiry of a notice period. Since the resignation was meant to come into effect from the date it was submitted, and it actually did, as he left the job just after tendering the resignation, it could not have been withdrawn. As per settled law, a resignation can be withdrawn only before it comes into effect.

7. Further, in all the communications submitted by the petitioner seeking permission to rejoin the post, he did not explicitly withdraw the letter of resignation. Instead, the request was to permit him to rejoin the post on two grounds, because his family problems had been solved, and that he deserved consideration on the basis of his previous performance and achievements. Nowhere has it been mentioned that he intended to withdraw the resignation earlier submitted; rather, an assurance was given that such interruption in service would not be caused and he would perform duties sincerely. Therefore, in the absence of any request of withdrawal of resignation, the same could not have been entertained or allowed by the University.

8. Still further, the petitioner's conduct in submitting the resignation and seeking permission to rejoin has not been *bona fide*. It is apparent on record that he tendered resignation by concealing true facts from

the University that he had been appointed as TGT Science in the Elementary Education Department. Even at the time of seeking permission to rejoin the post, he failed to disclose the facts correctly. It was only when the University told him to file an affidavit, that he revealed about his appointment in the Department where he had been working after tendering the resignation. This shows the petitioner has not been fair and transparent; instead, he approached the employer/University on false pretexts every time. Therefore, his request to rejoin could not have been entertained.

9. In the light of reasons aforementioned, this Court finds no justification to interfere in the matter. The petition, accordingly, stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

25.01.2024
Maninder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No