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

CWP-16955-1997 (O&M)
Date of Decision: 18.11.2024

H.S. Ahluwalia

....Petitioner

Versus

Punjab Communications Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Arun K. Vasudev, Advocate and
Mr. Nand Lal Thakur, Advocate
for the petitioner.

Mr. Bikramjit Singh Patwalia, Advocate,
Mr. Abhishek Masih, Advocate and
Mr. Gaurav Jagota, Advocate
for the respondents.

HARSH BUNGER, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India *inter alia* seeking a writ in the nature of Certiorari for setting aside the order dated 27.08.1997 (Annexure P-11) whereby, the resignation of the petitioner was accepted by respondent No.1 (Punjab Communications Ltd.).

A further prayer has been made for issuance of writ in the nature of Mandamus for declaring the petitioner to be continuing in service.

2. Briefly, the petitioner is stated to be working as the Deputy



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Manager (Materials) with the Punjab Communications Ltd.-respondent No.1.

2.1 It appears that the petitioner submitted an application seeking voluntary retirement on 22.08.1997 (Annexure P-10). The relevant extract thereof reads as under:

“Sub: VOLUNTARY RETIREMENT.

Respected Sir,

Due to personal circumstances, I am not in a position to continue my services with PUNCOM. I offer my voluntary retirement.

You are requested to expeditiously to release all my retirement benefits.

I hereby request you to sympathetically consider the following:

- a) Release of salary upto date of my retirement i.e. 3.4.1998.*
- b) Release of Rs.12,500/- as ex-gratio.*
- c) That no recovery of any expenditure be incurred by the CO in defending legal cases be made out of my retirement due on said other dues.*

I regret having forced the CO to approach the courts and I will actually assist in settling such incosligation amicably.

I understand that in future I will never indulge in any matter which may be in any way prejudicial to the interest of PUNCOM or any of the officers nor utilised the information which happened to collect during my service at PUNCOM in any way to harm/defend PUNCOM or any of its past or present employee.

It is requested that my voluntary retirement may please be accepted at the earliest I may be excused for (illegible) the deeds relating to PUNCOM of it present and past employee. I also request the Co. not to pursue any legal case against me, in the future.”

2.2 It transpires that respondent No.1 (Punjab Communications

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Limited) accepted the request of the petitioner of voluntary retirement while considering the same as resignation on 27.08.1997 (Annexure P-11).

3. Learned counsel for the petitioner submits that the petitioner never intended to resign rather his prayer was for voluntary retirement, therefore he should be deemed to have been continuing the service and since he was to be retired on 03.04.1998, accordingly the petitioner is seeking salary from 29.08.1997 upto 03.04.1998.

4. Per contra, learned counsel for the respondents has opposed the submissions made on behalf of the petitioner by submitting that as per the service rules of the Company, if an employee's services are terminated otherwise than by way of disciplinary action, the employee is entitled to all retiral benefits. It is further submitted that there is no difference in the use of word retirement or resignation as for purposes of terminal benefits, the Company treats all types of termination of service at par, whether it is resignation or voluntary retirement. It is stated that there is neither any scheme or provision for voluntary retirement nor for any pre-mature retirement.

4.1 It is next submitted that the petitioner was very well made aware of the fact that there is no provision for voluntary retirement and since he had expressed his unwillingness to continue in service, therefore his request can be considered as his resignation. It is stated that since the petitioner did not object to treating his request for voluntary retirement as resignation, accordingly the petitioner was permitted to resign by respondent No.1 by accepting his resignation on 27.08.1997 after waiving off the period of three months prior notice.

4.2 Learned counsel for the respondents has further referred to



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Annexure R-2, which is a letter dated 04.09.1997, whereby the petitioner had requested respondent No.1 (Punjab Communications Limited) to regularize his sick leave, which reads as under:

“To

*The Managing Director:
Punjab Communications Ltd.
S.A.S. Nagar, Mohali.*

Subject :- Regularisation of leave.

Respected Sir,

I had applied Sick leave from 26-7-97 to 2-8-97 and 3-8-97 to 4-9-97. It had come to my notice that my leave has not been regularised. In view of my resignation and accepted w.e.f. 27-8-97 I am in need to regularised my above said leave till 27-8-97.

I further request you to count my above said leave against my Earned leave stands credited in my account.

Thanking you.

Yours sincerely,

Sd/-

Chandigarh

4-9-97.

*(H.S. Ahluwalia)
H.No. 170/1, Sector-45/A.
Chandigarh.”*

4.3 A further reference is made to Annexure R-3, which is a proforma to be filled by the employee for the purpose of pension under the Employees Pension Scheme, 1995 wherein under the column No.5, reason for leaving service and date of leaving is stated as “Resignation/27.08.1997”. It is therefore contended that once the petitioner had proceeded with his resignation then he cannot be permitted to take a complete summersault that he never requested for resignation as his prayer was only for voluntary retirement. Accordingly, prayer has been made for dismissal of the instant

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Writ Petition.

5. Heard.

6. A perusal of Annexures R-2 and R-3 would clearly indicate that the petitioner had accepted the termination of his service by way of resignation and on that basis, the petitioner had sought regularization of his leave and had even sought release of his pensionary benefits wherein, the reason for leaving his service was given as 'resignation'. Therefore, it has to be taken that the petitioner had resigned from his services, which was duly accepted by the Authority on 27.08.1997. Accordingly, there is no force in the contention of the petitioner that he never applied for resignation or his prayer for voluntary retirement was wrongly treated as his "resignation".

7. In view of the above discussion and finding no merit in this petition, the instant writ petition fails and the same is accordingly dismissed.

8. All pending applications (if any) shall also stand closed.

18.11.2024
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No