

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

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2024:PHHC:035158-DB

LPA-680-2024 (O & M)
Date of Decision: 12.03.2024

Sandeep

.....Appellant(s)

Versus

Pt. B.D. Sharma University of Health Sciences, Rohtak and others

....Respondent(s)

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

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

Mr. Harmanjot Singh Gill, Advocate,
for the respondents.

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

CM-1663-LPA-2024

1. Application for condonation of delay of 3 days in filing the appeal is allowed, subject to all just exceptions.
2. Delay condoned.
3. CM stands disposed of.

LPA-680-2024 (O & M)

4. Consideration in the present letters patent appeal is to the judgment dated 25.01.2024 passed by the learned Single Judge in CWP-2927-2020 wherein the writ petition was dismissed whereby the prayer was made by the writ petitioner-appellant to rejoin the services as Laboratory Technician on the ground that he had withdrawn his resignation.
5. The learned Single Judge, after evaluating the facts, came to the conclusion that the resignation that had been tendered on 28.12.2018 was accepted vide office order dated June 12, 2023 with effect from the said date (Annexure R-

order was never challenged by him. It was noticed that he had resigned with immediate effect and not from any later date and the resignation had come into force from the date when it was submitted. In the absence of any request for withdrawal of resignation, the same could not have been entertained or allowed by the University and it was noticed that permission to rejoin was not *bona fide*. The petitioner had secured appointment as a Trained Graduate Teacher (TGT) Science in the Elementary Education Department as per the letter dated 20.12.2018 (Annexure P-2) in the intervening period and apparently he failed to disclose the facts correctly and it was only when the University had asked him to file an affidavit, he revealed that he had been appointed after tendering his resignation. It was in such circumstances the learned Single Judge came to the conclusion that the petitioner had approached the employer/university on false pretexts every time and, therefore, his request to rejoin could not have been entertained.

6. We have perused the paper book.

7. Counsel for the appellant has argued that the resignation was only as such accepted during the pendency of the writ petition.

8. Apparently on 21.12.2018 (Annexure P-3), he resigned with immediate effect and had been asked to deposit 3 months' salary on 28.01.2019 (Annexure P-4). It transpired that there was concealment on his part to take the necessary permission to sit in the recruitment process for the post of TGT and he apparently joined in January, 2019 after having resigned. The contract of employment, as such, thus came to an end. On account of the demand of the 3 months salary, the issue was raked up on 27.03.2019 (Annexure P-5) and on having a change of mind after submitting his resignation to the second appointment, he sought to rake up the issue of rejoining vide communication dated 03.08.2019 (Annexure P-6) after 4 months. Thereafter, he was asked to submit the requisite affidavit wherein it transpired for the first time that he had joined

as a TGT (Science) in the Education Department immediately upon resignation.

9. The conduct as such of the appellant who was working with the University is, thus, not in conformity with the terms of service as he could not have applied and sat in the said recruitment process of T.G.T. without taking permission and deliberately concealed the same at all stages. There is no legal right as such for him to ask for a writ of mandamus to direct the University to permit him to rejoin in view of the peculiar facts and circumstances. The appellant has been taking contradictory stands in as much as at one stage by submitting that he was not a confirmed employee and then seeking lien over the job and a right to continue with the same. In such circumstances, he cannot be permitted to blow hot and cold at the same time.

10. Accordingly, finding no merit in the appeal, the same is dismissed. All pending applications also stand disposed of accordingly.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

12.03.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No