

Neutral Citation No. **2024:PHHC:017246**

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

212

RSA-1462-1994 (O&M)
Date of Decision:07.02.2024

State of Punjab and another

... Appellants

Vs

Rajinder Singh Bakshi

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Vikas Arora, AAG, Punjab
for the appellants.

None for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Defendants-appellants are in second appeal before this Court challenging the concurrent finding of fact recorded by both the Courts below.
2. Brief facts may be noticed.
3. Plaintiff-respondent was appointed as a Sectional Officer (Civil) and joined service on 10.01.1973. In the year 1981, he was posted in National Highway Division and he submitted resignation from the post of Sectional Officer on 29.09.1981 by giving a month's notice, which was followed by numerous letters but his resignation was not accepted. Vide letter dated 05.04.1986, he withdrew his resignation, reported with the department and was permitted to join on 07.04.1986. Vide letter dated 20.10.1986, his resignation was

accepted, which he challenged by filing a suit for declaration and prayed for mandatory injunction directing the defendants-appellants to treat him in service for all intent and purpose.

4. Upon notice, suit was contested by the defendants-appellants by raising various preliminary objections, besides asserting that the resignation has been accepted after completing all the formalities. It was submitted that plaintiff joined Markfed as Assistant Engineer and after being retrenched, he applied with the defendants for re-joining.

5. On the basis of the pleadings, issues were framed and after the parties led evidence, the Trial Court by judgment and decree dated 08.03.1990 issued a declaration that acceptance of resignation is null and void. State filed the first appeal, which was rejected by the learned Additional District Judge, Patiala by judgment dated 27.10.1993. Assailing both the judgments, State is before this Court in the second appeal.

6. State counsel has been heard and record has been examined with his able assistance.

7. The settled position of law is that resignation submitted by an employee can be withdrawn by him before it becomes effective or is accepted by the employer as the jural relationship between the parties continues. (See *Union of India Vs Gopal Chander Misra* (1978) 2 SCC 301.

8. Adverted to the factual position of this case, it is an admitted fact that the plaintiff-respondent had withdrawn his

resignation before it was accepted and he was permitted to join the post. Acceptance of the resignation after the letter of withdrawal is non est and has been rightly set aside by both the Courts below. Still further, it may be noticed that while admitting the appeal, the operation of the judgment and decree was stayed by this Court. Although, State counsel does not have any specific instruction, but plaintiff-respondent must have served and superannuated from service during the pendency of the instant appeal.

9. For the foregoing reasons, this Court does not find any infirmity in the judgment and decree passed by the lower courts, which are upheld.

10. Consequently, appeal is dismissed with no order as to costs.

07.02.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No