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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12933 OF 2025

Smt. Mandakini D/o.Vyankatrao Mantri,
Age: 50 years, Occu.: Nil,
R/o. In front of Old R.T.O. Office,
Champavati Nagar, Barshi Road, Beed,
Tq. & Dist. Beed.

... Petitioner

Versus

1. The Chief Executive Officer,
Zilla Parishad, Beed.
2. The District Health Officer,
Headquarter at Beed,
Tq. and Dist. Beed.
3. The Taluka Health Officer,
Tq. Dharur, Dist. Beed.
4. The Medical Officer,
Primary Health Center,
Bhogalwadi, Tq. Dharur,
Dist. Beed.

... Respondents

.....
Mr. S.R. Kedar, Advocate for Petitioner

.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATED : 05 DECEMBER, 2025

ORDER [Per Hiten S. Venegavkar, J.] :-

1. The petitioner has approached this Court under Article 226 of the Constitution of India seeking quashing of the order dated 06.11.2015 issued by respondent No.1, whereby her request for withdrawal of

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resignation and her claim for pensionary benefits came to be rejected. The petitioner further seeks a direction to respondent No.1 permitting her to withdraw her resignation dated 17.02.2007 and a declaration that the acceptance of the resignation on 20.02.2007 is illegal, arbitrary and contrary to the applicable Pension Rules. In the alternative, she prays that the period of service rendered by her of 10 years, 4 months and 25 days be declared as qualifying service for purpose of pension and consequential benefits. She also prays for a direction to the respondent No.1 to decide her representation dated 20.01.2025 within a stipulated period.

2. The case of the petitioner is that she came to be appointed as a health worker on 23.09.1996 under the schedule tribe category by following due process of selection. She joined services on 25.09.1996 at Mohakhed Primary Health Centre, Taluka Dharur, District Beed. Her caste certificate was duly verified and her service book was completed in accordance with the applicable Rules. She was entitled for the benefits of provident fund, 5th pay commission, pay fixation and other admissible allowances. On 05.10.2001, she was deputed for 6 months training at the District Civil Hospital, Nanded. On 17.02.2007, she tendered her resignation which came to be accepted on 20.02.2007. According to the petitioner, her resignation was not in consonance with

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the applicable terms and conditions and that after a short period, she realized the consequences, and therefore, made consistent efforts before the authorities to allow her to withdraw her resignation. According to her, the respondent authorities did not consider her request and ultimately rejected the same. Even the pension proposal which was forwarded by the authorities came to be rejected by order dated 06.11.2015. She further contains that her representation dated 20.01.2025, raising once again a twofold request first for withdrawal of resignation and secondly for pensionary benefits if withdrawal is not permitted has not been decided and it is still pending. She relies upon Rule 46 of the Maharashtra Civil Services (Pension) Rules 1982 and in particular Sub-rule 4 which empowers the appointing authority to consider reinstatement of an employee who had earlier resigned, if such reinstatement is in public interest. According to the petitioner, she possessed the requisite qualifications, rendered more than 10 years of blemish free service, and therefore, deserved either reinstatement by withdrawal of resignation or in the alternative, consideration of her past service for pensionary benefits.

3. Learned advocate appearing for the petitioner submits that Rule 46 Sub-clause 4 of the Pension Rules contemplates that where public interest warrants an employee may be permitted to withdraw

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resignation and rejoin service. He submits that petitioner had no adverse record, was eligible, competent and had rendered exemplary service for more than 10 years and therefore deserved sympathetic consideration. He submits that even if reinstatement were not to be granted, the petitioner service of 10 years 4 months and 25 days or to have been reckoned as qualifying service for pension. According to the learned advocate, the authorities heard in rejecting the petitioner's request by mechanically applying Rule 46 without examining the special circumstances and subsequent developments. He further submits that the rejection of pensionary benefits is arbitrary because the petitioner was compelled to resign due to domestic circumstances and that her long service should not be permitted to go waste.

4. Having heard the learned advocate for the petitioner and having perused the original documents and the relevant pension rules, we find no factual dispute regarding the petitioner's appointment, her service from 1996 to 2007, her tendering resignation on 17.02.2007 and its acceptance on 20.02.2007. The petitioner admittedly remained out of service from the said date and has approached the authorities according to her own showing only in the year 2025. The petitioner seeks to invoke rule 46 of the Maharashtra Civil Services (Pension) Rules, 1982. Rule 46 Sub-clause 1 reads "resignation from a service or a post entails

forfeiture of past service”. Rule 46 Sub-clause 4 provides that “the appointing authority may permit a person who has resigned from service to be reinstated in service if such reinstatement is in the public interest”. A conjoined reading of Rules 46(1) and 46(4) makes it clear that while resignation ordinarily results in forfeiture of past service, the appointing authority has limited discretion to permit reinstatement in public interest. However, such discretion must be exercised contemporaneously or within a reasonable period and not after an employee has voluntarily severed her relationship and remained outside service for nearly two decades.

5. The law relating to resignation and its withdrawal is well settled by the Hon’ble Supreme Court. In *Rajkumar v. Union of India*, AIR 1969 SC 180, the Court held that resignation becomes effective when it is accepted and communicated and once the employee has been relieved, the relationship of employer and employee comes to an end. In *Union of India and others v. Gopal Chandra Misra and others*, (1978) 2 SCC 301, the Constitution Bench which reiterated that withdrawal of resignation after acceptance is permissible only if the resignation has not yet become effective. Similarly, in *Balram Gupta versus Union of India*, (1987) Suppl. SCC 228, the Hon’ble Supreme Court allowed withdrawal of resignation before the effective date, but emphasized that

once resignation becomes operative, reinstatement is not a matter of right. Again in *Shambhu Murari Sinha v. Project and Development India Limited and another*, (2002) 3 SCC 437, the Hon'ble Supreme Court held that where an employee allows resignation to become effective and thereafter remain silent for years, he cannot claim reinstatement or pensionary benefits on the basis of service that stands forfeited by operation of law. These principles, which are binding on this Court under Article 141 of the Constitution, squarely governs the present case.

6. Applying these principles to the undisputed facts, it is evident that the petitioner tendered her resignation voluntarily, it was accepted, she was relieved and she remained out of service from 20.02.2007. Her alleged request, if any to withdraw resignation was neither documented nor made within a reasonable period. Her substantiated representations is submitted only in the year 2025 that is 18 years after resignation. There is not a single contemporaneous communication from 2007 or the years immediately following it on record. The extraordinary delay and lack of any documentary evidence of earlier attempts to withdraw resignation completely dis-entitled the petitioner from claiming that she sought reinstatement under Rule 46 Sub-clause 4. Moreover, Rule 46 Sub-clause 4 of Pension Rules is an enabling provision to be exercised by the administration in public interest, it does not create a wasted or

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enforceable right in favor of the employee.

7. As regards pensionary benefits, for rule 46 Sub-clause 1 expressly mandates that resignation entails forfeiture of past service. Consequently, the petitioner's past service of 10 years 4 months and 25 days stands forfeited by operation of law. Even otherwise, the petitioner has not completed the minimum qualifying service prescribed for pension. The pension proposal was rejected in 2015 and even that order has not been challenged in the present petition. The petitioner's alternative prayer for directing grant of pension is legally impermissible in view of the statutory bar under Rule 46 Sub-clause 1 and in view of the Hon'ble Supreme Court's unequivocal pronouncement in ***Gopal Chandra Mishra*** (supra) and ***Shambhu Murari Sinha*** (supra) that resignation puts an end to qualifying service.

8. In the totality of circumstances, the petitioner seeks to reopen issues concluded 18 years ago, without any legal foundation or contemporaneous evidence. The writ jurisdiction under Article 226 cannot be invoked to unsettled matters which have long attained finality, particularly when the statute explicitly bars the very relief sought. The acceptance of resignation in 2007, the rejection of pension proposal in 2015 and the petitioner's prolonged silence thereafter leaves no scope for exercise of discretion in her favor. There is no infirmity in

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the impugned order dated 06.11.2015 and no constitutional or statutory right of the petitioner stands violated.

9. In view of the above discussion, we find no merits in the petition. The writ petition stands dismissed. There shall be no orders as to cost

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane