



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

122 (2 cases)

Reserved on :19/08/2025

Date of Decision: 15.09.2025

RSA-2159-2016 (O&M)

Preetpal

.....Appellant

Vs.

State of Haryana and others

.....Respondents

RSA-3245-2016 (O&M)

Preetpal

.....Appellant

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Ms. Kushaldeep Kaur, Advocate and
Ms. Sharvi Dadhwal, Advocate
for the appellant(s).

Mr. Harish Nain, AAG, Haryana

SUDEEPTI SHARMA J. (Oral)

1. Since the issue involved in both the appeals is common and it is between the same parties, therefore, with the consent of both the parties, both appeals are decided vide this common judgment.

2. The present appeals are preferred against judgment and decree dated 05.02.2016, whereby, appeal filed by the appellant against judgment and decree dated 16.01.2015 was dismissed and appeal filed by respondent-State was allowed.



BRIEF FACTS OF THE CASE

3. Brief facts of the case are that the appellant was appointed as Constable in the Police Department on 18.09.1989. On 09.09.2013 he submitted an application for voluntary retirement. The application submitted by the appellant was forwarded by Superintendent of Police to Inspector General of Police, vide letter dated 12.09.2013 for necessary action.

4. On 12.09.2013 itself, appellant submitted an application for withdrawal of earlier request of voluntary retirement. Thereafter, application for revocation/withdrawal was forwarded by Superintendent of Police, District Mahendergarh, Narnaul (respondent No.4) to Inspector General of Police (respondent No.3) on 19.09.2013.

5. Despite withdrawal of application seeking voluntary retirement within three days of submission, application filed by the applicant for voluntary retirement was accepted vide order dated 30.09.2013.

6. He filed civil suit challenging order dated 30.09.2013 passed by respondents. Civil suit filed by him was partly decreed in his favour by Additional Civil Judge (Sr. Division), Narnaul vide judgment and decree dated 16.01.2015. Since the civil suit was partly decreed, therefore, for remaining relief, appellant filed appeal before District Judge, Narnaul, challenging judgment and decree dated 16.01.2015 passed by Additional Civil Judge (Sr. Division), Narnaul.

7. Since his appeal was partly decreed, therefore, respondent-State also filed appeal against judgment and decree dated 16.01.2015 passed by Additional Civil Judge (Sr. Division), Narnaul for challenging the partly decreed portion. Learned District Judge, Narnaul decided both the appeals



vide common judgment and decree dated 05.02.2016, whereby, appeal filed by appellant was dismissed, whereas, appeal filed by respondent-State of Haryana was allowed. Hence, the present regular second appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

8. Learned counsel for the appellant contends that appellant submitted his application for voluntary retirement on 09.09.2013 but before it could be accepted or enforced, he moved an application for withdrawal/revocation of his application for voluntary retirement within three days i.e. on 12.09.2013. The authorities proceeded to retire the petitioner w.e.f. 30.09.2013 without adjudicating the withdrawal request, which is contrary to settled principles of law, that voluntary retirement notice/application can be withdrawn at any time before its acceptance. She contends that Rule 5.32-B is wrongly interpreted by learned First Appellate Court.

9. She relies upon following judgments to support her case that withdrawal of her retirement notice, even with immediate effect, must be considered prior to its acceptance:-

- (i) *Hon'ble Supreme Court in the case of **Union of India V. Shri Gopal Chandra Misra** [1978 AIR (Supreme Court) 694]*
- (ii) *Hon'ble Supreme Court in the case of **Balram Gupta V. Union of India** [1978 AIR (Supreme Court) 2354]*

10. She therefore, prays that the present appeal be allowed.

11. Per contra learned counsel for the respondent contends that the appeal filed by the State is rightly allowed and appeal filed by the appellant is rightly dismissed. He further, prays for the dismissal of present appeal.



12. I have heard learned counsel for the parties and perused the whole record of this case.

ANALYSIS OF RECORD

13. PW1-HC Suresh Kumar brought the summon record and proved the copy of request for voluntary retirement by appellant as Ex.P-2, letter dated 12.09.2013 vide which the request of appellant was forwarded by Superintendent of Police, District Mahendergarh, Narnaul (respondent No.4) to Inspector General of Police (respondent No.3) for necessary action (Ex.P-1), copy of letter dated 19.09.2013 written by Superintendent of Police, District Mahendergarh, Narnaul (respondent No.4) to Inspector General of Police (respondent No.3) vide which the request of appellant for withdrawal of his application for voluntary retirement was forwarded (Ex.P-3), order dated 30.09.2013 passed by respondent No.4 (Ex.P-4) vide which request of appellant for voluntary retirement from service was accepted as Ex.P-5, letter dated 04.10.2013 by respondent No.3 to respondent No.4 intimating that request of appellant for revocation of his application for voluntary retirement has been considered and filed as he already stands retired w.e.f. 30.09.2013 (Ex.P-6), copy of application for voluntary retirement (Ex.P-7), copy of order dated 22.11.2013 (Ex.P-8), copy of letter written by EASI Madan Lal for revocation of his request for voluntary retirement (Ex.P-9), copy of letter sent to appellant for vacation of his Government quarter (Ex.P-10). In his cross-examination, he submitted that he has no personal knowledge regarding the facts of the case.



14. Appellant was examined as PW-2 in his cross-examination, he denied that he always remained absent from duty, and that he has been retired from service as per rules.

15. Sunil Kumar, Clerk, was examined as DW-2 and proved the attested copy of letter dated 12.09.2013 vide which the request of appellant for voluntary retirement was forwarded by respondent No.4 to respondent No.3 for further necessary action (Ex.D-8).

16. Admittedly, notice/application for voluntary retirement was given on 09.09.2013 and the same was withdrawn on 12.09.2013.

17. Vide order dated 30.09.2013 without deciding the withdrawal application dated 12.09.2013, order dated 30.09.2013 retiring the appellant from service was passed.

18. It would be appropriate to reproduce Rule 5.32-B of Punjab Civil Services Rules, Volume-I which is relevant in the present case. The same is reproduced as under:-

“5.32-B. (1) At any time a Government employee has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service. However, a Government employee may make a request in writing to the appointing authority to accept notice of less than three months giving reason therefore. On receipt of a request, the appointing authority may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority may relax the requirement of notice of three months on the condition



that the Government employee shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(2) The notice of voluntary retirement given under sub rule (1) shall require acceptance by the appointing authority subject to rule 2.2 of Pb. C. S. R. Vol. II.

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in sub rule (1) supra, the retirement shall become effective from the date of expiry of the said period.

Provided further that before a Government employee gives notice of voluntary retirement with reference to sub-rule(1) he should satisfy himself by means of a reference to the appropriate authority that he has, in fact, completed twenty years service qualifying for pension.

(3) The qualifying service as on the date of intended retirement of the Govt. employee seeking retirement under this rule or under clause (e) of rule 3.26 of Pb. C. S. R. Vol. I, Part I with or without permission shall be increased by the period not exceeding 5 years subject to the condition that the total qualifying service rendered by the Govt. employee does not in any case exceed 33 years and it does not take him beyond the date of superannuation. The weight age of five years shall not be admissible in cases of those Government employees who are prematurely retired by the Government in public interest under the relevant rules.

(4) A Government employee, who has elected to retire under this rule and has given the necessary notice to that effect to the appointing authority, shall be precluded from withdrawing his notice except with the



specific approval of such authority. Provided that the request for withdrawal shall be made before the intended date of his retirement.

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(5) The pension and death-cum-retirement gratuity of the Government employee retiring under this rule shall be based on the emoluments as defined under rule 6.24 of Punjab Civil Services Rules, Volume II and the increase not exceeding five years in his qualifying service shall not entitle him to any notional fixation of pay for the purposes of calculating pension and gratuity.

(6) The amount of pension to be granted after giving the weightage will be subject to the provisions of rule 6.4 of Punjab Civil Services Rules Volume II.

(7) This rule shall not apply to a Government employee who retires from Government service for being absorbed permanently in an autonomous body or a Public Sector Undertaking to which he is on deputation at the time of seeking voluntary retirement.”

19. A perusal of the above referred to rule shows that the employee who has completed 20 years qualifying service may by giving notice of not less than three months in writing to the appointing authority, retire from service. However, the government employee may make a request in writing to the appointing authority to accept notice of less than three months giving reason thereof and on receipt of request, the appointing authority may consider the same for curtailment of period of notice of three months on merits.



20. Stand of the respondent in the suit is that appellant applied for voluntary retirement with immediate effect, therefore, he could not have been permitted to withdraw the same.

21. In the present case, a perusal of Ex.P-2 which is application for voluntary retirement shows that the appellant was seeking voluntary retirement forthwith on the ground of some personal difficulty/domestic problems, whereas, as per requirement of Rule 5.32-B, notice for not less than three months in writing is required to be given.

22. Ex.P-4 is order dated 30.09.2013. His request dated 09.09.2013 for voluntary retirement was accepted without considering his application dated 12.09.2013 for withdrawal of the earlier request of voluntary retirement. Order dated 30.09.2013 is reproduced as under:-

“EASI/HC Preet Pal No. 70/NNL (Executive Clerk) of this district who has qualified more than 20 years of service being his date of enlistment is 18.9.89. As per his service record he is hereby permitted to retire from service on voluntarily retirement with effect from 30.9.2013 A.N. as approved by worthy Inspector General of Police South Range. Rewari as per his own request dated 9.9.2013 under rule 5.32 (B) (1) CSR Vol-II part-II giving him relaxation in three months notice. As per CSR Rule 5.32 (B) (1) he will not apply for commutation of a part of his pension before the expiry of the period of notice of three months i.e 9.9.2013 because a notice not less than three months in writing to appointing authority as he has submitted an application/request on 9.9.2013.”

23. Another order is passed on 30.09.2013, which is Ex.P-5, whereby, approval was accorded for voluntary retirement to appellant Ex.P-6 dated 04.10.2013 is passed by Inspector General of Police and addressed to



Superintendent of Police, wherein, application filed by appellant for withdrawal of voluntary retirement was considered and filed on the ground that he stands retired w.e.f. 30.09.2013 vide order dated 30.09.2013.

24. A perusal of the record shows that admittedly without deciding the application for revocation/withdrawal of notice for voluntary retirement dated 12.09.2013 which was filed after three days of application for voluntary retirement, order dated 30.09.2013 is passed, whereby, the appellant was voluntarily retired, whereas, his application for withdrawal/revocation of application for voluntary retirement dated 12.09.2013 was decided on 04.10.2013 – Ex.P-6, which is reproduced as under:-

“Pleas refer to your office memo No.12935/Spl dated 19-9-2013 on the subject noted above.

2. Application of HC Preet Pal No. 70/NNL (Executive Clerk) dated 13.09.2013 for withdrawal of voluntary retirement order has been considered and filed. He already stands retired w.e.f. 30.09.2013 vide this office order No.9703/A-2 dated 30.09.2013. His character roll received vide memo. No. 12859/Spl dated 12.09.2013 is returned herewith being no longer required.”

25. Admittedly, without deciding withdrawal of application for voluntary retirement dated 12.09.2013, respondents on the basis of application for voluntary retirement dated 09.09.2013, voluntarily retired the appellant which is against the settled principle of law.

26. Further after passing order dated 30.09.2013 which is passed without considering withdrawal of application for voluntary retirement dated 12.09.2013, withdrawal of application for voluntary retirement dated



12.09.2013 was decided on 04.10.2013 which is just a mere formality and not sustainable in the eyes of law. Therefore, order dated 30.09.2013 is not a valid and legal order and is not sustainable in the eyes of law.

27. Now coming to the judgments referred to by learned counsel for the petitioner:-

27-A Hon'ble Supreme Court in the case of **Union of India V. Shri Gopal Chandra Misra** [1978 AIR (Supreme Court) 694], relevant portion of which is reproduced as under:-

"51. It will bear repetition that the general principle is that in the absence of a legal, contractual or constitutional bar, a "prospective" resignation can be withdrawn at any time before it becomes effective, and it becomes effective when it operates to terminate the employment or the office tenure of the resignor. This general rule is equally applicable to Government servants and constitutional functionaries. In the case of a Government servant or functionary who cannot, under the conditions of his service/or office, by his own unilateral act of tendering resignation, give up his service/or office, normally the tender of resignation becomes effective and his service/or office-tenure terminated, when it is accepted by the competent authority. In the case of a Judge of a High Court, who is a constitutional functionary and under Proviso (a) to Article 217(1) has a unilateral right or privilege to resign his office, his resignation becomes effective and tenure terminated on the date from which he, of his own volition, chooses to quit office. If in terms of the writing under his hand addressed to the President, he resigns in praesenti the resignation terminates his office-tenure forthwith, and cannot therefore, be withdrawn or revoked thereafter. But, if he by such writing, chooses to resign from a future date the act of resigning office is not complete because it does not terminate



his tenure before such date and the Judge can at any time before the arrival of that prospective date on which it was intended to be effective withdraw it, because the Constitution does not bar such withdrawal.”

27-B Hon’ble Supreme Court in the case of **Balram Gupta V. Union of India** [1978 AIR (Supreme Court) 2354], relevant portion of which is reproduced as under:-

“11. In Air India etc. v. Nergesh Meerza etc., (1982)1 SCR 438, there the Court struck down certain provisions of Air India Employees Service Regulations. We are not concerned with the actual controversy. But the Court reiterated that there should not be arbitrariness and hostile discrimination in Government's approach to its employees. On behalf of the respondent it was submitted that a Government servant was not entitled to demand as of right, permission to withdraw the letter of voluntary retirement, it could only be given as a matter of grace. Our attention was also drawn to the observations of this Court in Raj Kumar v. Union of India (1968)3 SCR 857. There the Court reiterated that till the resignation was accepted by the appropriate authority in consonance with the rules governing the acceptance, the public servant concerned has locus poenitentiae but not thereafter. Undue delay in intimating to the public servant concerned the action taken on the letter of resignation may justify an inference that resignation had not been accepted. But in the facts of the instant case the resignation from the Government servant was to take effect at a subsequent date prospectively and the withdrawal was long before that date. Therefore, the appellant, in our opinion, had locus. As mentioned hereinbefore the main question was whether the sub-rule (4) of Rule 48-A was valid and if so whether the power exercised under the sub-rule (4) of Rule 48-A



was proper. In the view we have taken it is not necessary, in our opinion, to decide whether sub-rule (4) of Rule 48-A was valid or not. It may be a salutary requirement that a Government servant cannot withdraw a letter of resignation or of voluntary retirement at his sweet will and put the Government into difficulties by writing letters of resignation or retirement and withdrawing the same immediately without rhyme or reasons. Therefore, for the purpose of appeal we do not propose to consider the question whether sub-rule (4) of Rule 48-A of the Pension Rules is valid or not. If properly exercised the power of the Government may be a salutary rule. Approval, however, is not ipse dixit of the approving authority. The approving authority who has the statutory authority must act reasonably and rationally. The only reason put forward here is that the appellant had not indicated his reasons for withdrawal. This, in our opinion, was sufficiently indicated that he was prevailed upon by his friends and the appellant had a second look at the matter. This is not an unreasonable reason. The guidelines indicated are as follows:

"(2) A question has been raised whether a Government servant who has given to the appropriate authority notice of retirement under the para 2(2) above has any right subsequently (but during the currency of the notice) to withdraw the same and return to duty. The question has been considered carefully and the conclusion reached is that the Government servant has no such right. There would, however, be no objection to permission being given to such a Government servant, on consideration of the circumstances of his case to withdraw the notice given by him, but ordinarily such permission should not be granted unless he is in a position to show that there has been a material change in the circumstances in consideration of which the notice was originally given.



Where the notice of retirement has been served by Government on the Government servant, it may be withdrawn if so desired for adequate reasons, provided the Government servant concerned is agreeable."

12. In this case the guidelines are that ordinarily permission should not be granted unless the officer concerned is in a position to show that there has been a material change in the circumstances in consideration of which the notice was originally given. In the facts of the instant case such indication has been given. The appellant has stated that on the persistent and personal requests of the staff members he had dropped the idea of seeking voluntary retirement. We do not see how this could not be a good and valid reason. It is true that he was resigning and in the notice for resignation he had not given any reason except to state that he sought voluntary retirement. We see nothing wrong in this. In the modern age we should not put embargo upon people's choice or freedom. If, however, the administration had made arrangements acting on his resignation or letter of retirement to make other employee available for his job, that would be another matter but the offer to retire and withdrawal of appellant's, the same happened in so quick succession that it cannot be said that any administrative set up or arrangement was affected. The administration has now taken a long time by its own attitude to communicate the matter. For this purpose the respondent is to be blamed and not the appellant."

CONCLUSION

28. Hon'ble Supreme Court in above referred to judgments held that there should not be arbitrariness and hostile discrimination in government's approach to its employees.



29. Hon'ble Supreme Court in "**Bank of India and others Vs. O.P. Swarnakar**" held that offer of voluntary retirement can be withdrawn any time before its acceptance. In the present case offer of voluntary retirement was made on 09.09.2013 which was withdrawn on 12.09.2013 and on 30.09.2013 without deciding withdrawal of earlier application dated 12.09.2013 application for voluntary retirement was accepted.

30. In view of above, law laid down by Hon'ble Supreme Court and above referred to judgment, I do not find any infirmity in judgment and decree dated 16.01.2015, since it has rightly partly decreed the civil suit in favour of the appellant.

31. Further it has been rightly held by learned Civil Judge (Sr. Division), Narnaul that in view of the settled principle of "**No Work No Pay**" appellant is not entitled to pay, allowances and other service benefits from 01.10.2013 till his reinstatement.

32. In view of the same, judgment and decree dated 05.02.2016 passed by District Judge, Narnaul in both the appeals is set aside. And judgment and decree dated 16.01.2015 passed by Additional Civil Judge (Sr. Division), Narnaul is upheld.

33. Accordingly, in view of judgment and decree dated 16.01.2015 passed by Additional Civil Judge (Sr. Division), Narnaul, appellant is held entitled to reinstatement forthwith without any backwages.

August 19th, 2025

(SUDEEPTI SHARMA)

Sahil

JUDGE

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