





worked as such up to 26.12.1979. He was promoted as Assistant Professor on 17.12.1979 and worked up to 08.05.1985. Subsequently he was appointed as Professor Skin & V.D. vide order dated 26.04.1985 and continued as such. It is stated in the civil suit that Principal of Guru Gobind Singh Medical College Faridkot had ill will against the appellant. He managed and manipulated the false complaints against the appellant. And appellant was also threatened regarding implication of false inquiries and criminal cases. Appellant applied for leave without pay from a period from 18.04.1986 to 17.08.1986 but the same was rejected. On 06.06.1986 respondent forwarded copy of complaint to the appellant requiring him to appear before him in the inquiry proceedings on 23.06.1986. Appellant claimed that complaint dated 10.03.1986 made against him was false and baseless and was created by the respondents to harass him. Being harassed by the respondents, he was compelled to write a letter dated 09.06.1986 regarding resigning from job. The letter of resignation dated 09.06.1986 was however a conditional one because it was mentioned therein that appellant be intimated about the amount deposited in lieu of three months notice. On 14.08.1986, he made a written request for withdrawal of his resignation. Thereafter, he sent another registered letter dated 27.01.1987 in connection with the withdrawal of his resignation. As per pleadings, Health Minister, Punjab, Chandigarh passed an order whereby, appellant was ordered to be prematurely retired from service and on the basis of that order, respondents issued order dated 28.11.1986 whereby, appellant was prematurely retired from service and that order was communicated to appellant on 25.02.1987. Thereafter, appellant sent legal notice through counsel which was never replied whereby, it was stated that appellant never applied for retirement and the resignation was withdrawn by him. And resignation was submitted due



to pressure and duress of the respondents. Therefore, the respondents were accordingly asked to revoke the order dated 28.11.1986 regarding premature retirement of appellant from service. However, respondents passed order dated 14.05.1987 whereby, resignation of appellant was accepted with effect from 09.06.1986. He filed representation for revocation of order dated 14.05.1987. He submitted representation to the Governor of Punjab also. Thereafter, he filed civil suit for declaration that orders retiring the appellant from service and accepting his resignation are illegal, null and void. Civil suit filed by him was decreed in his favor by learned Sub-Judge, First Class, Patiala (CJM) vide judgment and decree dated 14.10.1991. Respondents filed appeal against the same which was allowed by learned Additional District Judge, Patiala vide judgment and decree dated 24.12.1992. Hence, the present regular second appeal.

3. Learned Senior Counsel for the appellant contends that the respondents have accepted the resignation retrospectively which is not valid. He further contends that learned First Appellate Court has wrongly reversed the well-reasoned judgment and decree dated 14.10.1991 passed by learned Trial Court. He, therefore, prays that the present regular second appeal be allowed.

4. In support of his arguments he relies on the following judgments:-

i. Union of India And Ors. Vs. Gopal Chandra Misra and Ors. (1978) 2 SCC 301

ii. B.B. Gupta Vs. Presiding Officer, Labour Court, Union Territory, Chandigarh and another

5. *Per contra*, learned State counsel contends that the appeal filed by s is rightly accepted. He further contends that the appellant himself gave the date in resignation, therefore it would not amount to retrospective resignation. He, therefore, prays that the present regular second appeal be dismissed.



6. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

7. A perusal of the record shows that Ex.P-13 is the resignation dated 09.06.1986 submitted by appellant in which he had written that due to unavoidable circumstances, he was under tension and could not continue his job. Therefore, his resignation with effect from 09.06.1986 be accepted and he be intimated about the amount, if any, to be deposited in lieu of notice for three months period. Ex.P-17 is dated 14.07.1986 which according to appellant had been sent by UPC. Exhibit P-19 is copy of letter dated 27.01.1987 which appellant sent through registered post. Postal receipt is Ex.P-20. In notice/letter dated 27.01.1987, appellant mentioned that he had heard nothing in response to letter written on 09.06.1986 and 14.07.1986. Ex.P-21 is order of Government dated 28.11.1986 vide which appellant was permitted to retire from service on his request with effect from 09.06.1986. In terms of Punjab Government (premature retirement) service rules, on the condition that he will deposit three months pay in lieu of three months notice otherwise this amount shall be deducted from his dues.

8. Appellant was also to submit no demand certificate. A clearance certificate from vigilance department was also required. Some surety bond was also required. Thereafter, appellant vide notice dated 05.03.1987 (Ex.P-22) stated that order dated 28.11.1986 endorsed on 08.12.1986 was wrong since resignation was already withdrawn on 14.07.1986. Ex.P-25 is copy of order of government dated 16.05.1987 vide which earlier order dated 08.12.1986 was superseded and resignation of appellant was accepted by the Government. The conditions mentioned were the same as in earlier orders. Ex.D-1 is resignation letter dated 15.01.1986 where appellant had asked for retirement and had stated



that resignation dated 15.01.1986 be treated as notice of three months and he be relieved from duty from 15.04.1986. This resignation dated 15.01.1986 was withdrawn by appellant vide his letter dated 31.03.1986. At the time of withdrawing that resignation appellant had sent advance copy to Secretary, Health and Family Welfare, Punjab and also to D.R.M.E. Punjab, regarding withdrawal of his resignation.

9. Ex.D3 is copy of advertisement of the Tribune dated 15.05.1986 showing that Dr. Raj Kumar Garg (appellant) had started private Skin and V.D. Clinic in Patiala. There was letter dated 12.06.1986 on the file of the Government showing that Dr. Raj Kumar Garg (appellant) was doing private practice. Another letter dated 23.07.1986 addressed by D.R.M.E. to Secretary is to the effect that Dr. Raj Kumar Garg (appellant) was asked to join vide letter dated 12.06.1986 but he had submitted resignation and is ready to deposit three months pay. Letter dated 06.06.1986 (Ex.P-14) shows that appellant had applied for leave from 18.04.1986 to 17.08.1986 and the same was rejected and was treated as absent from duty. In this letter there was reference that intimation regarding rejection of leave had been sent vide telegram dated 13.05.1986. Ex.P-15 is again letter dated 06.06.1986 which shows that inquiry was pending against appellant.

10. A perusal of record further shows that appellant submitted resignation on 09.06.1986 and its advance copies were sent to D.R.M.E. and Secretary Health. Withdrawal letter dated 14.07.1986 is hand written and is stated to have been sent by UPC with no copy to anybody. The letter dated 27.01.1987 (Ex.P-9), (Ex.P-22) of February 1987 and other notices etc., all had been sent by registered post. Appellant was working as Professor in Medical College and he had always been sending letters with copies to D.R.M.E. and to



Secretary through registered posts. Sending of withdrawal of resignation letter just by UPC shows that it was not sent at all. If in ordinary course appellant was sending every letter through registered post then the sending of withdrawal of resignation letter through UPC which was important document shows that it is mere a formality to fill the lacuna afterwards. It is apparent from the record that even after alleged withdrawal of resignation appellant never joined the service.

11. A perusal of record shows that in fact the appellant started his private practice which is further proved from the advertisement in the paper. And letter dated 12.06.1986 of the Government also shows that appellant was doing private practice. This further shows that appellant was not interested in continuing with the job. He applied for leave which was rejected and thereafter, he submitted his resignation. Further the alleged withdrawal of resignation also shows that the same is afterthought just to claim benefits of Government job. Even after resignation there is nothing on record to show that the appellant tried to join service or joined service. So as the contention of learned Senior Counsel for the appellant with respect to the retrospective acceptance of resignation is concerned, the same is rejected since in the resignation dated 09.06.1986 itself, it was submitted that due to unavoidable family circumstances, he was under tension and could not join the job, therefore, his resignation be accepted with effect from 09.06.1986 and he may be intimated about the amount, if any, in lieu of notice for three months period. The resignation letter itself shows that it was forthwith, therefore, there is no question of resigning him retrospectively.

12. So far as, judgment passed by Hon'ble Supreme Court in ***Union of India And Ors. Vs. Gopal Chandra Misra and Ors. (1978) 2 SCC 301*** as referred to by learned Senior Counsel for the appellant is concerned the same



pertains to the resignation of a High Court Judge. And in **CWP-10280-2001** titled as ***B.B. Gupta Vs. Presiding Officer, Labour Court, Union Territory, Chandigarh and another***, the petitioner submitted resignation on 01.11.1993 by giving one month's notice so as to give effect to the said resignation starting from 01.12.1993. Whereas, in the present case the appellant has specifically written the date in the resignation letter that is with effect from 09.06.1986, therefore, the facts of the present case are distinguishable and above referred to judgments would not be applicable.

13. The Hon'ble Andhra Pradesh High Court in **S. Kesireddy Vs. Managing Director, A.P. State Warehousing Corporation, Hyderabad, 2000(3) SCT 579** has held as under:-

“13. Sri Vedula Srinivas appeared as amicus curiae at the request of the Court and readily agreed to assist the Court. Learned amicus curiae would submit that the intention of the employee as expressed in the resignation letter would be very vital to consider the question as to whether and from what date the resignation would come into effect. In a given case the resignation letter itself may suggest as if an employee himself is requesting for dispensing with any formalities including the mandatory notice period.

14. Various decisions are cited across the Bar. The law on the subject is not res integra. It is true, the Apex Court took the view that there is practically no distinction between the resignation and voluntary retirement, as the result effect of both the voluntary retirement as well as the resignation is the cessation of relationship of an employer and employee between the parties. The effect of resignation or voluntary retirement is unilateral termination of the relationship of employer and



employee. The observations made by the Supreme Court in **Balram Gupta v. Union of India, AIR 1987 Supreme Court 2354 : 1988 Lab IC 46**, that a notice of voluntary retirement may stand at par with letter of resignation is required to be understood in the background of the Central Civil Services (Pension) Rules, 1972. The effect of voluntary retirement and resignation resulting in cessation of employer and employee relationship may be the same. The said decision does not support the broad submission made by the learned counsel for the petitioner as if there is no distinction between voluntary retirement and resignation. In a given case, the difference, if any, may depend upon setting of the Rules governing the resignation as well as voluntary retirement. This aspect need not detain us any further, as admittedly, there is no provision under the Regulations with which we are now presently concerned for any voluntary retirement. It is settled law that the resigning officer necessarily involved relinquishment of the office which implies cessation or termination of, or cutting asunder from the office. In **Balram Gupta's case (1988 Lab IC 46) (supra)** the very letter of resignation date 24.12.1980 by the employee has come into operation with effect from 31.3.1981 as per the contents of the resignation letter. It is under those circumstances, the Supreme Court held that the employee therein is entitled to withdraw his resignation on any prior to 31.3.1981. It was permissible for the employee to withdraw his resignation before its acceptance by the employer and the employer could not have accepted the resignation prior to 31.3.1981. Such is not the case on hand. More about it later.

15. The decision in **D. Sundara Rao v. Visakhapatnam Port Trust, Visakhapatnam, ILR 1974 Andh. Pra. 488** upon which reliance is placed by the learned counsel



*for the petitioner would also not render any assistance whatsoever and support the case put-forth by the petitioner. In that case, the employee gave notice of resignation on 3rd April, 1970 with three months' notice with a request that the same may be taken as notice or resignation. The employer accepted the resignation with effect from 2nd July, 1970. The employee by letter date 18th April, 1990 withdrew his resignation, but the same was not accepted by the employer on the ground that the resignation has already been accepted. It is under those circumstances, a Division Bench of this Court observed that when there was an agreement in future to termination the contract of service with effect from a particular date, a new contract fructifies and springs into life only on that date and has the effect of putting an end to the original contract of service. Till then the relationship of master and servant continues. The old contract will be extinguished only when the new agreement comes into force. Since the relationship of master and servant continues and the employee continues to be in service, it must follow that he had the right to withdraw his offer of resignation before it becomes irrevocable and it could become irrevocable only on the expiry of the stipulated period when the acceptance become binding on the parties. In **Union of India v. Gopal Chandra Misra**, AIR 1978 Supreme Court 694 : 1978 Lab IC 660, interpretation of Article 217 of the Constitution of India dealing with resignation of a Judge of the High Court fell for consideration. The Judge concerned through letter dated May 7, 1977 gave an intimation or notice of his intention to resign his office on a future date, viz., August 1, 1977. The said letter was withdrawn by the Judge concerned through another letter date July 15, 1977 addressed to the President of India.*



*Under those circumstances, the letter dated May 7, 1977 was construed as communication as a prospective or potential resignation, but before the arrival of the indicated future date, it was certainly not a complete and operative resignation because, by itself, it did not and could not sever the writer from the office of the Judge, or terminate his tenure as such. It was held that before the arrival of the indicated future date, it was wholly inert, inoperative and ineffective, and could not, and in fact did not, cause any jural effect. The Apex Court held that in the absence of legal, 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. In **P. Kasilingam v. P.S.G. College of Technology, 1981(1) SCC 405 : 1981 Lab IC 189**, it is observed by the Supreme Court that the service of a Government servant normally stand terminated from the date on which the letter of resignation is accepted by the appropriate authority, unless there is any law or statutory rule governing the conditions of service to the contrary. In **Coromandal Fertilizers Ltd. v. P. Venugopal, 1986(1) Lab LJ 417**, Jeevan Reddy, J. (as his Lordship then was) speaking for the Bench observed that "in the absence of standing orders, bye-laws or Rules governing resignation of employees in a company, the same has to be judged with reference to the ordinary law of the land that is the law of contract. Resignation submitted by the employee is in the form of an offer. It is open to the management to accept the said offer or reject the same, but it was not open to the Management to accept the resignation with effect from 20th October, 1981. Such an acceptance is not really the acceptance of*



an offer but amounts to a counter offer which must again be accepted by the workman.

16. The facts in **Punjab National Bank v. P.K. Mittal, 1989 Supp(2) SCC 175 : 1989 Lab IC 1248**, are not exactly similar but nearer to the facts on hand. A permanent officer in the Bank, sent a communication to the Bank on January 21, 1986 purporting it to be a letter of resignation from the services of the Bank due to personal reasons. In the said letter, he added that the date of receipt of the letter should be treated as the date of the commencement of the notice period, so that, inclusive of the same his resignation would become effective on June 30, 1986. The Officer received letter from the Bank of February 7, 1986 informing that his resignation letter date January 21, 1986 has been accepted by the competent authority with immediate effect by waiving the condition of notice and that, consequently, he was being relieved from the service of the bank with effect from the afternoon of the same date i.e., February 7, 1986. That was challenged. The relevant Service Regulations provide that no officer shall resign from the services of the Bank, otherwise than on the expiry of the three months from the service on the bank of a notice in writing of such resignation : Provided that the competent authority may reduce the period of three months, or remit the requirement of notice. Interpreting the said Regulation which is more or less similar to that one on hand, the Supreme Court observed that there are two ways of interpreting this clause. One is that the resignation of an employee from service being a voluntary act on the part of an employee, he is entitled to choose the date with effect from which his resignation would be effective and give a notice to the employer accordingly. The only restriction is that the proposed



*date should not be less than three months from the date on which the notice is given of the proposed resignation. The other interpretation is that, when an employee gives a notice of resignation, it becomes effective on the expiry of three months from the date thereof. In the said case, it was observed by the Supreme Court that the employee wished to resign with effect from June 30, 1986 and so the resignation would have become effective only on that date. If the said interpretation is to be accepted, the employee's resignation would have taken effect on or about April 21, 1986 even though he had mentioned a later date. Under those circumstances, the Supreme Court observed that in either view of the matter, the respondent's resignation did not become effective till April 21, 1986 or June 30, 1986. It would have normally automatically taken effect on either of those dates as there is no provision for any acceptance or rejection of the resignation by the employer. However, it was sought to be argued that the said Regulations and its proviso are intended only to safeguard the Bank's interest, as the proviso enables the competent authority to reduce the period of three months or remit the requirement of notice which has been done in that case. The Supreme Court rejecting the contention observed that the Regulation and the proviso is intended not only for the protection of the Bank but also for the benefit of the employees. It is observed that "the proviso **in our opinion should** not be interpreted as enabling a bank to thrust a resignation on an employee with effect from the date different from the one on which he can make his resignation effective under the terms of the regulation." Under those circumstances, the Supreme Court held that it was open to the employee to exercise his right to withdraw the resignation before the resignation became effective. However, the*



observations of the Supreme Court while referring the judgment of the Delhi High Court in **Delhi Electric Supply Undertaking v. Tara Chand, 1978(2) Serv LR 425** may have vital bearing on the issue. The Delhi High Court in that case was concerned with the interpretation of the similar Regulation observed that notice under the regulation was intended for the benefit of the employer which could, if it considered necessary or proper, waive the period of notice and accept the resignation with immediate effect. In that context the Supreme Court observed "but that was a case where the employee, though bound to give three months notice expressed his desire to resign with immediate effect and it was also accepted by the employer. It was not the case that he had given notice indicating a desire to be relieved at a future date. The analogy of that case would have applied to the present case as well if the respondent here had expressed his desire to be relieved immediately even before the expiry of the three months notice period and the bank had accepted it. The employer would then certainly have been entitled to accept the resignation, as requested by the employee, waiving the notice period. The distinction between that case and the present one is that, here, the employee has chosen a future date on which resignation would be effective but he is being forced to resign before such date." The observations are very pertinent.

17. The observations made by the Supreme Court and the reasoning as to why it thought to approve the action of the Delhi Electric Supply Undertaking (*supra*) would equally apply to the facts on hand. In this case, the petitioner could have issued notice expressing his intention to resign at the expiry of the period of notice in terms of Regulation 11. He could have also submitted his resignation expressing his intention to be relieved with



effect from a date chosen by him. In the first eventuality his resignation could have been accepted only after the three months' period of notice as provided under Regulation 11 and the same would have resulted in cessation of employer and employee relationship between the parties with effect from the date of acceptance of the resignation. In the second scenario his resignation could have been accepted by the respondent-Corporation only with effect from future date chosen by the petitioner. But the letter of resignation sent by the petitioner in the instant case suggests as if he wanted his resignation to be accepted by the respondent-Corporation instantaneously. In fact within one week the petitioner reiterated his request to accept his resignation and send substitute to take charge from him at the place of his work. Neither the resignation letter date 26.9.1990 nor the subsequent letter date 4.10.1990 suggest any future date from which his resignation would come into effect nor the said letters would suggest as if the petitioner intended to give notice of three months in terms of Regulation 11. Under those circumstances, the decision of the respondent-Corporation to accept the resignation of the petitioner by condoning the advance notice period does not suffer from any infirmity. If the letter of resignation was the notice within the meaning of Regulation 11, perhaps, the Corporation could not have waived the period of notice unilaterally depriving the petitioner of his right to withdraw the resignation within the notice period. The petitioner perfectly would have been at liberty to withdraw his resignation before expiry of the mandatory notice period provided for under the Regulation. But in this case, it is the petitioner who pressed for acceptance of his resignation with immediate effect. It is under those



circumstances, the Corporation not only accepted the resignation but condoned the period of notice.

18. The petitioner got himself relieved on 15.12.1990 and whereas his letter purporting to withdraw the resignation reached the office of the respondent- Corporation only on 18.12.1990, though dated 7.12.1990. By the time his resignation had already been accepted by the competent authority. The petitioner has even acknowledged his relief at Vedayapalem on 15.12.1990 itself. It is quite possible that the petitioner may have deliberately put the date as 7.12.1990 after he is relieved from his post. Evidently the said letter is not sent under registered post acknowledgement due, but appears to have been submitted in person and received in the Corporation only on 18.12.1990. The facts speak for themselves. The respondent-Corporation had not committed any illegality whatsoever in accepting the resignation of the petitioner as requested by him by waiving the notice period. There is no dispute whatsoever that the petitioner voluntarily tendered his resignation and not on account of any duress or coercion and it is an act by which he voluntarily gave up his job.

*19. In **J.N. Srivastava v. Union of India, 1998(9) SCC 559 : 1998 AIR SCW 4057**, the question came up for consideration before the Supreme Court was whether the appellant therein was entitled to withdraw his voluntary retirement notice of three months submitted by him on 3.10.1989 which was to come into effect from 31.1.1990. The proposal of the employee was accepted by the authorities on 2.11.1989 but thereafter before 31.1.1990 was reached, the employee wrote a letter to withdraw his voluntary retirement proposal by letter date 11.12.1989. This was rejected by the employer through*



*communication date 26.12.1989. However, the employee having relinquished the charge, questioned the same before the Tribunal. The Supreme Court observed that "even if the voluntary retirement notice is moved by an employee and gets accepted by the authority within the time fixed, before the date of retirement is reached, the employee has locus poenitentiae to withdraw the proposal for voluntary retirement." The Supreme Court relied upon the decision in Balram Gupta's case (1998 Lab IC 46) (supra). It is required to observe that in the said case the employee served the retirement notice of three months on 3.10.1989 which was to come into effect from 31.1.1990. But in the instant case, the petitioner has not issued any letter as such, as provided for under the Regulation 11, by giving three months' notice. It is he who wanted his resignation should be accepted immediately. In **General Manager Bhel, Research and Development, Hyderabad v. K. Rajita Suryakanta, 1999(2) Andh LD 311 : 1999 Lab IC 1943**, a Division Bench of this Court observed that "mere passing of the order accepting the resignation by itself would not terminate the relationship of master and servant as the management is always at liberty to withdraw the order passed before the same is implemented". In the facts and circumstances of the case, it is observed that "in pith and substance, reading of the letter of offer of resignation and acceptance of the same in its totality indicate that the relationship of master and servant is being brought to an end only with effect from 2.1.1987 and it would be well within the right of the employee to withdraw the resignation and continue the relationship of master and servant before the final end is brought to the said relationship."*



20. To sum up, in the instant case, the petitioner has submitted his resignation through letter date 26.9.1990 without giving any notice of three months period as provided for under Regulation 11 of the said Regulations of the Corporation. It is not a case of any notice but a request to accept his resignation at once. Even while it was under consideration of the Corporation, the petitioner reiterated his request through letter dated 4.10.1990 requesting the Corporation to approve his resignation and send the substitute to take charge from him. This has been accepted by the Managing Director on 6.12.1990 itself, but proceedings were issued on 7.12.1990 accepting the resignation of the petitioner from the date of his relief at Vedayapalem Warehouse. The petitioner accepted the same and got himself relieved by handing over the charge to his substitute on 15.12.1990. The petitioner thereafter sent letter dated 7.12.1990 (on the said date, the proceedings accepting the petitioner's resignation was issued) proposing to withdraw his resignation letter dated 26.9.1990. But the same is received by the respondent's office only on 18.12.1990, but by that time, not only the resignation was accepted but also he was relieved from his post. The respondent-Corporation through the proceedings dated 8.1.1991 informed the petitioner about the refusal to accept his request to withdraw his resignation on the ground that his resignation had already been accepted vide proceedings dated 7.12.1990 by condoning the advance notice period. As observed earlier, it is not a case where the employee issued any notice expressing his intention to resign after the expiry of notice period as provided for by the Regulation. It is not a case where an employee expressed his desire to tender resignation with reference to any future date. It is a case where an employee wanted



to resign voluntarily and by putting an end to the service by his unilateral act requesting the employer to accept his resignation forthwith. It is a case where the employer merely acceded to the request of the employee. He cannot be allowed to turn round and complain that his resignation could not have been accepted even before the expiry of notice period and his resignation would come into effect only after the expiry of notice period.

21. There is no provision under the Regulations of the Corporation for any voluntary retirement. Therefore, the petitioner is not entitled for any benefit as if he retired from the service. Under these circumstance, the respondent-Corporation is entitled to proceed against the petitioner for recovery of any dues from him in accordance with law.

*22. For the aforesaid reasons, **I do not find any** merit in this writ petition and the same shall stand accordingly dismissed. No order as to costs.*

23. The Court acknowledges the valuable assistance rendered by Sri Vedula Srinivas who readily agreed to assist the Court as amicus curiae.

Petition dismissed.”

14. In view of the above, I do not find any infirmity in judgment and decree dated 24.12.1992 passed by learned Additional District Judge, Patiala and the same is upheld.

15. Accordingly, the present regular second appeal is **dismissed**.

16. Pending application(s), if any, also stand disposed of.

21.05.2026

Saahil/Ayub

(SUDEEPTI SHARMA)
JUDGE

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