

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA-875-1995 (O&M)

Bhag Singh AryaAppellant

Versus

Haryana Agricultural University, Hissar & othersRespondents

1.	Reserved on	:	12.02.2026
2.	Pronounced on	:	19.02.2026
3.	Uploaded on the website	:	19.02.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	:	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	:	Not applicable

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by : Mr. Sukesh Kumar Jindal, Advocate
for the appellants.

Mr. Shreenath A Khemka, Advocate and
Ms. Tvesha Gupta, Advocate
for the respondents.

NAMIT KUMAR, J.

1. The appellant/plaintiff is in Regular Second Appeal before this Court challenging the judgment and decree dated 28.11.1994, passed by learned First Appellate Court, whereby the appeal preferred by the respondents/defendants, has been partly accepted and the judgment and decree dated 21.02.1994, passed by learned Trial Court has been modified to the extent that the plaintiff shall not be entitled to arrears of salary from the date of acceptance of his resignation to the date of his joining, pursuant to the learned Trial Court decree.
2. Parties to the *lis* hereinafter shall be referred to by their original position before the learned Trial Court.

3. In brief, the facts of the case are that the appellant-plaintiff (Bhag Singh), joined the services of Haryana Agricultural University, Hisar on 01.10.1974 as 'Research Assistant' and was charge-sheeted on 03.12.1986 allegedly for the charge of wilful and unauthorized absence from duty, disobedience of orders, and violation of Employees Conduct Rules, amounting to gross misconduct. It was further alleged that during the period of his extraordinary leave and absence, he had actively participated in political activities and had led a '*Jatha*' of farmers on behalf of 'Janta Party' on 28.08.1986 and demonstrated before the residence of the Deputy Commissioner, Kurukshetra and the office of Superintending Engineer, Haryana, State Electricity Board, Kurukshetra and raised slogans before the Panchayat Bhawan on the same very day, where some dignitaries were present in connection with a training programme, which amounts to violation of Rule 5 (i) of the Employees Conduct Rule. The matter was enquired into by an Enquiry Officer, who submitted an enquiry report dated 06.03.1987 in favour of the appellant-plaintiff. However, said inquiry report was not accepted by the Vice Chancellor and consequently, a fresh Enquiry Officer was appointed on 03.04.1987. Feeling humiliated, as alleged, the plaintiff submitted his resignation dated 16.04.1987. It is pertinent to note that on the same date, i.e. 16.04.1987, the plaintiff submitted two separate letters. In the first letter, he has submitted that since a departmental enquiry on the same charges had already been conducted, therefore, a second enquiry could not be initiated and he would not attend the fresh Enquiry being unnecessarily harassed. In the second letter, he submitted his resignation, which reads as under-

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“Sir,

Recently, I have come to know that a second enquiry is being instituted against me on the same charges on which another departmental enquiry has already been conducted. This is un-lawful and nothing but harassment. I have been put under unnecessary suspension since 13.11.1986. I feel that I am being victimized.

In these circumstances, I do not want to continue in the service and have been compelled to resign. I hereby tender my resignation under protest, with the request that I may be relieved from my duty with effect from 30.04.1987 after noon. The subsistence allowance for the period falling short of one month's notice may be recovered from my subsistence allowance which has not been paid to me right from 13.11.86.

With kindest regards. ”

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4. The aforesaid letter of resignation dated 16.04.1987, was accepted vide impugned order dated 16.05.1987, by the Professor & Head of the Department (Agronomy) and not by the Vice Chancellor of Kurukshetra University. Thereafter, another office order dated 20.06.1987 was issued by the respondents-University modifying the impugned order dated 16.05.1987, whereby one month's salary from the GPF of the plaintiff was ordered to be recovered, however, consequent to the acceptance of the resignation of the plaintiff, departmental proceedings instituted against him were dropped, vide office order dated 05.06.1987 of the Registrar, HAU, Hisar.

5. Feeling aggrieved, the plaintiff instituted a suit for declaration, which was decreed by the trial court, vide judgement and decree dated 21.02.1994, and it was held that the order dated 16.05.1987, vide which the letter of resignation of the plaintiff was accepted by the subordinate authority, i.e. Head of Department, and the order dated 20.06.1987, whereby the earlier order dated 16.05.1987 was

modified, were illegal and liable to be set aside. Accordingly, the plaintiff was ordered to be treated as having continued in service w.e.f. 30.04.1987, i.e. from the date on which the resignation of the plaintiff was accepted and it was further directed that he will be entitled to all consequential benefits including the arrears of salary and allowances etc. to which he would have been otherwise entitled, however, liberty was granted to the University authorities to take the appropriate action qua the departmental proceedings pending against the plaintiff at that time, if otherwise permissible under law. The judgement and decree dated 21.02.1994 passed by the trial court was assailed by the respondent-University by preferring an appeal, which was partly accepted by the First Appellate Court, vide its judgement and decree dated 28.11.1994, whereby the judgement and decree of the trial court were modified to the extent that the plaintiff-appellant was held not entitled to the arrears of salary from the date of acceptance of his resignation till the date of his re-joining pursuant to the trial court decree. Dissatisfied with the findings of the First Appellate Court, the appellant-plaintiff (Bhag Singh) has preferred the instant Regular Second Appeal, claiming back wages and arrears for the period in question i.e. from 30.04.1987, the date of acceptance of his resignation till the date of his re-joining of services, pursuant to the trial court decree.

6. Learned counsel for the appellant outrightly submits that since the learned Trial Court has treated the appellant/plaintiff (Bhag Singh) as being in service with effect from 30.04.1987, the date on which his resignation was illegally accepted, therefore, he is entitled to

back wages and arrears for the period in question i.e. from the date of acceptance of his resignation i.e. 30.04.1987 till the date of re-joining his services, pursuant to the trial court decree. It was further contended that the impugned judgment and decree passed by the learned First Appellate Court, whereby the judgment and decree of the learned Trial Court was modified to the extent that the plaintiff is not entitled to the arrears of salary from the date of acceptance of his resignation to the date of his rejoining is patently illegal, based on incorrect appreciation of law as well as evidence and is liable to be set aside. In support of his contention, learned counsel for the appellant/plaintiff has placed reliance upon the judgment of the Hon'ble Supreme Court passed in case titled as '**Union of India v. K.V. Jankiraman**', 1991(3) SCT 317.

7. *Per contra*, learned counsel for the respondents-University submits that the impugned judgment and decree of the First Appellate Court calls for no interference since the plaintiff, who had rejoined the services pursuant to the judgment of the learned Trial Court, is not entitled to any back wages and arrears, as he did not work during the period in question and his claim is liable to be rejected in view of the settled proposition of law 'no work no pay' for the period he remained out of service.

8. I have heard learned counsel for the parties and perused the record.

9. Admittedly, the plaintiff-Bhag Singh, joined the services of Haryana Agricultural University, Hisar on 01.10.1974 as a 'Research Assistant' and was charge-sheeted on 03.12.1986, on allegations of wilful and unauthorized absence from duty, disobedience of orders and violation of Employees Conduct Rules, amounting to gross misconduct.

It was further alleged that he took active part in political activities during his period of extra-ordinary leave and absence, inasmuch as lead a '*Jatha*' of farmers on behalf of 'Janta Party' on 28.08.1986 and demonstrated before the residence of the Deputy Commissioner, Kurukshetra and the office of Superintending Engineer, Haryana, State Electricity Board, Kurukshetra and also raised slogans before the Panchayat Bhawan on the same day, where certain dignitaries were present in connection with some training programme. Such acts were alleged to be in violation of Rule 5 (i) of the Employees Conduct Rule. The matter was enquired into by the Enquiry Officer, who, finding no substance in the charges, submitted an enquiry report in favour of the appellant-plaintiff, however, said inquiry report was not accepted being inadequate and incomplete by the Vice Chancellor and consequently, a fresh Enquiry Officer was appointed on 03.04.1987. Feeling humiliated, as alleged, the plaintiff submitted his resignation dated 16.04.1987, which was accepted vide impugned order dated 16.05.1987, by the Professor & Head of the Department (Agronomy), and not by the Vice Chancellor of Kurukshetra University. The said order was subsequently modified, vide another order dated 20.06.1987, whereby one month's salary from the GPF of the plaintiff was ordered to be recovered. It is also an admitted fact that on the day of resignation, the plaintiff had submitted two letters of the same date i.e. 16.04.1987. In the first letter, he stated that since a departmental enquiry on the same charges had already been conducted, therefore, a second enquiry could not be held and that he was being unnecessarily harassed, and therefore, he would not participate in the same. On the

same day, without waiting for the fate of his first letter, he submitted the second letter, tendering his Resignation dated 16.04.1987.

10. It was the case of the appellant-plaintiff, before the courts below, that the aforesaid letter dated 16.04.1987 was in fact a protest letter against the humiliation being done by the department, which, however, has been treated as a letter of resignation and has not been accepted by the competent authority, as the same has been accepted by the Professor & Head of the Department (Agronomy), vide impugned order dated 16.05.1987, whereas the same should have been accepted by the Vice Chancellor of Kurukshetra University, being the competent authority. The suit filed by the plaintiff for declaration was decreed by the trial court and it was held that the order dated 16.05.1987, vide which the letter of resignation of the plaintiff was accepted by the subordinate authority, i.e. Head of the Department, and the order dated 20.06.1987, whereby the earlier order dated 16.05.1987 was modified, were illegal and liable to be set aside and the plaintiff was ordered to be treated as having continued in service w.e.f. 30.04.1987 i.e. from the date on which the resignation of the plaintiff was accepted and it was further directed that he will be entitled to all consequential benefits including the arrears of salary and allowances etc. to which he would have been otherwise entitled. However, liberty was granted to the University authorities to take the appropriate action *qua* the departmental proceedings pending against the plaintiff at that time, if otherwise permissible under law. Learned Trial Court, while accepting the claim of the plaintiff, has placed reliance upon a judgment of this Court passed in case titled as “***Mrs. Manju Gupta versus Haryana***

Agricultural University through its Registrar, Hissar, and others”

1990 (2) RSJ 416, wherein also the resignation of Mrs. Manju Gupta was accepted by the Dean, who was a subordinate authority and not by the Vice Chancellor. It is also an admitted fact that, consequent upon the acceptance of the resignation of the plaintiff, departmental proceedings instituted against him were dropped. Subsequently, the judgement and decree dated 21.02.1994 passed by the trial court was assailed by the respondents-University by preferring an appeal and the First Appellate Court, vide its judgement and decree dated 28.11.1994, partly accepted the appeal and modified the judgement and decree of the trial court to the extent that the plaintiff-appellant shall not be entitled to the arrears of salary from the date of acceptance of his resignation till the date of his re-joining services, pursuant to the trial court decree. It is also an admitted fact that the plaintiff-appellant has taken voluntary retirement on 20.11.2009.

11. The sole question involved in the present *lis* is whether the appellant-plaintiff was entitled to back wages and arrears for the period during which he remained out of service, i.e. from the date of acceptance of his resignation i.e. 30.04.1987, till the date of his re-joining service, pursuant to the decree passed by the learned Trial Court.

12. After considering the contentions made by learned counsel for the parties and material available on record, this Court is of the considered opinion that the letter of resignation dated 16.04.1987 was not a conditional letter, since the plaintiff has nowhere submitted in the resignation letter that his resignation is subject to any condition. Even

otherwise also, the conduct of the plaintiff in submitting two letters on the same date i.e. 16.04.1987, cannot be appreciated. In the first letter, he has submitted that since a departmental enquiry on the same charges had already been conducted, therefore, a second enquiry could not be held and that he was being unnecessarily harassed, and therefore, he would not attend the enquiry. However, the subsequent enquiry was not a second enquiry, but infact a re-enquiry to ascertain the facts, which every competent authority of a department or institution is empowered to do so. Moreover, the conduct of the plaintiff in tendering his second letter of Resignation dated 16.04.1987 on the same day, without awaiting the outcome of his first letter, also reflects conduct unbecoming of a sincere employee. Such conduct conveys an expression and gesture of resentment coupled with an implied ultimatum, suggesting that 'either you withdraw the departmental proceedings or accept the resignation', which approach cannot be permitted to prevail in any institution or department by any stretch of imagination. Further, the charges leveled against the plaintiff were also serious in nature and in violation to the Employees Conduct Rules, debarring any government employee to participate in political rallies and *dharnas* etc., which the plaintiff has been alleged to be done so as detailed in the charge-sheet. However, the said charges were dropped on account of the acceptance of his resignation and the respondent-University by taking a lenient approach did not continue with the departmental proceedings, despite being afforded a liberty to do so, vide judgment and decree of the trial court, instead, the plaintiff was allowed to re-join his duties by treating him to be in continuous service

w.e.f. 30.04.1987. In this view of the matter the appellant-plaintiff (Bhag Singh Arya) is not entitled to back wages and arrears for the period in question during which he remained out of service, i.e. from the date of acceptance of his resignation i.e. 30.04.1987 till the date of his re-joining services, pursuant to the trial court decree.

13. Needless, to observe here that the findings of the trial court and the First Appellate court regarding the issue of competency *qua* acceptance of the resignation by the Head of the Department instead of the Vice Chancellor of the University, were correct in view of the settled proposition of law laid down by this Court in ***Mrs. Manju Gupta's case (supra)***. The aforesaid judgment was challenged by the University before a Division Bench of this Court by filing LPA No.1063 of 1990, which was accepted on 26.10.1990, wherein she was held not entitled for the back wages for the period she remained out of service on account of her resignation. The concluding para of the said judgment reads as under:-

“4. After hearing the learned counsel for the parties, we are of the considered opinion that the writ petitioner (now the respondent) was not entitled to the arrears of any salary as she had tendered resignation though it was accepted conditionally. Under the circumstances, there was no justification for allowing her to the arrears of salary as well as the costs of the writ petition. The order of the learned Single Judge is modified to that extent.

5. However, it is made clear that Mrs. Manju Gupta will be entitled to the salary from the date she joins the University. After she joins the University, she will be bound by the terms of the bond executed by her and in case there is any breach subsequent thereto, the University will be at liberty to take proceedings in accordance with law. The appeal stands disposed of accordingly.”

13A. The reliance placed by learned counsel for the appellant on the judgment of ***K.V. Jankiraman's case (supra)*** would not help the

cause of the appellant, as the said judgment would not be applicable in the facts and circumstances of the present case, as in the said judgment, it has been held that “normally the rule of 'no work, no pay' is not applicable to cases where employee is willing to work but is kept away by authorities for no fault of his.”, however, in the present case, the situation is different, as the appellant had submitted his resignation only because re-enquiry was ordered against him.

14. Keeping in view the settled proposition of law *ibid*; the facts and circumstances involved in the present case, particularly the conduct of the plaintiff-appellant; the nature of resignation tendered by him; the settled principles of 'no work, no pay', and order dated 26.10.1990 passed by the Division Bench in ***Mrs. Manju Gupta's case (supra)***, this Court finds no illegality, perversity, or material infirmity in the impugned judgment and decree passed by the First Appellate Court. The findings recorded therein are based on correct appreciation of the evidence and the applicable law and do not call for any interference by this Court.

15. Accordingly, the present Regular Second Appeal is hereby dismissed and the impugned judgment and decree are affirmed and upheld, and the appellant-plaintiff (Bhag Singh Arya) is held not entitled to any back wages and arrears for the period during which he remained out of service i.e. from the date of acceptance of his resignation i.e. 30.04.1987 till the date of his re-joining service, pursuant to the trial court decree.

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16. Prayer in the application is for placing on record the

documents regarding the undertaking furnished by the appellant/plaintiff to withdraw the present appeal.

17. Since the appeal filed by the appellant/plaintiff has been dismissed, no further orders are called for in the present application, which stands disposed of accordingly.

19.02.2026

Vinay/m.k. koundal

(NAMIT KUMAR)
JUDGE

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