

CASE NO.:
Appeal (civil) 1363 of 2005

PETITIONER:
State Bank of Patiala

RESPONDENT:
Phoolpati

DATE OF JUDGMENT: 23/02/2005

BENCH:
Arijit Pasayat & S.H. Kapadia

JUDGMENT:
JUDGMENT

ARIJIT PASAYAT, J.

Leave granted.

Challenge in this appeal is to the correctness of a judgment rendered by a Division Bench of the Punjab and Haryana High Court holding that the appellant-Bank was not justified in relieving Hari Ram, deceased husband of the respondent, from services of the Bank with effect from 5.3.2002.

The factual background which is almost undisputed is as under:

Late Hari Ram joined the services of the appellant-Bank on 9.1.1985. In the normal course, he would have retired on 6.6.2005. On 7.1.2002 he submitted his resignation to the Branch Manager of the Kungar Branch requesting its acceptance w.e.f. 1.3.2002, which was received by the Bank on 8.1.2002. On 4.2.2002 late Hari Ram sought to withdraw the proposed resignation. The ground indicated was that at the time of writing the letter he was seriously ill, was suffering from fever, and due to the effect of medicines he was mentally disturbed. He, therefore, requested not to give effect to the letter. On receipt of the letter, appellant-Bank wrote back to him saying that since he had indicated to have written the letter due to ailment, proof of ailment and supporting documents were required to be filed. It was clearly indicated that in the event of failure to submit the documents, he would be relieved from the Bank's service w.e.f. 1.3.2002. No document was submitted. On the contrary, another letter was received from late Hari Ram on 4.3.2002 reiterating his prayer for accepting his resignation. The request for resignation was accepted and late Hari Ram was relieved from the Bank's service on 5.3.2002. On 8.6.2002 late Hari Ram expired. On 12.8.2002 the admitted service benefits were accepted by the respondent. On 7.10.2002 a writ petition was filed before the High Court taking the stand that late Hari Ram continued to be in service of the Bank and the order directing his relieve from the Bank's service w.e.f. 5.3.2002 was illegal. The Division Bench by the impugned judgment accepted the prayer.

It was concluded that the resignation was withdrawn before it came into effect, and the letter purported to have been received by appellant-Bank on 4.3.2002 was clearly of no consequence. As the resignation was withdrawn much prior to the stipulated date of its acceptance, the Bank had no legal authority to relieve him w.e.f. 5.3.2002.

Mr. G.L. Sanghi, learned senior counsel appearing for the appellant-Bank submitted that the High Court failed to appreciate effect of the letter dated 4.3.2002, the factum that late Hari Ram never questioned the Bank's action so long as he was alive and the receipt of the retiral benefits unconditionally by the respondent.

In response, learned counsel for the respondent submitted that late Hari Ram never intended to pursue his letter of resignation and had withdrawn the same before it was actually accepted. The original letter dated 7.1.2002 clearly indicated that the same was to be operative w.e.f. 1.3.2002. There was no acceptance of the same before 1.3.2002 and, in fact, he was allowed to continue till 4.3.2002. Therefore, jural relationship had not been snapped. Merely because late Hari Ram had not questioned validity of the order dated 4.3.2002 that cannot lead to an inference that same provided validity to an invalidity act.

It is a settled position in law that unless the employee is relieved from the duty after acceptance of the offer of voluntary retirement or resignation, jural relationship of the employee and the employer does not come to an end. (See: Power Finance Corporation Ltd. v. Pramod Kumar Bhatia, [1997] 4 SCC 280). Though much stress was laid by learned counsel for the respondent on this decision to contend that the resignation having not been accepted prior to 1.3.2002, the jural relationship continued does not stand the logic. The undisputed fact is that after withdrawal of the letter of resignation, late Hari Ram was specifically asked to justify his claim that he had sought for resignation under mental tension. It was clearly indicated to him that in case of failure to justify the stand by producing documents, resignation was to be accepted. He did not choose to file the documents asked for and he again reiterated the request for acceptance of his resignation. Much stress was laid by learned counsel for the respondent that letter received on 4.3.2002 was not dated. But the same is really of no consequence. The undisputed position is that the same was received on 4.3.2002 by the Branch Manager and was acted upon. The chain of events, as noted above, go to show that the last letter which was received by the Branch Manager on 4.3.2002 was in continuance of the earlier letter dated 7.1.2002. The fact remains that authorities wanted to verify the bona fides of claim that he had written the letter under mental tension. In any event, during his life time late Hari Ram never questioned the legality of the Bank's action in relieving him from duty w.e.f. 5.3.2002 by accepting his resignation. The admissible service benefits were accepted by the respondent.

A complete and effective act of resigning office is one which severs the link of the resignor with his office and terminates his tenure. This position was highlighted by a constitution Bench of this Court in Union of India and Ors. v. Gopal Chandra Misra and Ors., [1978] 2 SCC 301, and reiterated in Balram Gupta v. Union of India and Anr., [1987] Supp. SCC 228, J.N. Srivastava v. Union of India and Anr., [1998] 9 SCC 559, Nand Keshwar Prasad v. Indian Farmers Fertilizers Cooperative Ltd. and Ors., [1998] 5 SCC 461 and Shambhu Murari Sinha v. Project and Development India Ltd., AIR (2002) SC 1341.

In the instant case the factual position clearly shows that late Hari Ram had tendered his resignation which was sought to be withdrawn. But the withdrawal was not accepted and subsequently there was reiteration of the prayer for voluntary resignation. The inevitable conclusion, therefore, is that the High Court was not justified in interfering with the order of appellant-Bank relieving late Hari Ram w.e.f. 5.3.2002 consequent upon accepting his prayer for resignation.

The judgment of the High Court is accordingly set aside. The appeal is allowed but in the circumstances there will be no order as to costs.