

Punjab National Bank

Vs

P. K. Mittal

Civil Appeal No. 2014 of 1986

(S. Ranganathan, Sabyasachi Mukharji JJ)

13.02.1989

JUDGMENT

RANGANATHAN, J. –

1. A very short question as to the interpretation of the service regulations of the appellant-bank comes up for consideration in this appeal. The relevant service regulation is Regulation 20 which reads as under :

"20 (1) Subject to sub-regulation (3) of Regulation 16, the bank may terminate the services of any officer by giving him three months' notice in writing or by paying him three months' emoluments in lieu thereof.

(2) No officer shall resign from the service of the bank otherwise than on the expiry of three months from the service on the bank of a notice in writing of such resignation :

Provided further that the competent authority may reduce the period of three months, or remit the requirement of notice."

2. The respondents, a permanent officer in the bank, sent a communication to the bank of January 21, 1986. By this letter he purported to resign from the service of the bank due to personal reasons. 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. According to the respondent, the Deputy General Manager, who was the competent authority under the Service Regulations, had agreed that the resignation may be accepted with effect from June 30, 1986. However, what actually transpired was that the respondent received a letter from the bank on February 7, 1986 informing him that his resignation letter dated January 21, 1986 had 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, namely, February 7, 1986. The respondent thereupon filed a writ petition in the High Court challenging the validity of the purported acceptance of his resignation with effect from February 7, 1986 and for a direction to the bank to treat him as in service of the bank up to June 30, 1986 and as entitled to all benefits while being in such service.

3. A further development took place after the filing of the writ petition and before it came up for hearing. On April 15, 1986, the respondent wrote a letter dated January 21, 1986. The High Court, therefore, dealt with the situation resulting from his subsequent development. The High Court held

that the petitioner's resignation letter would have become effective only on June 30, 1986. Under the regulations there was no jurisdiction whatever in the competent authority to determine his services earlier. Until the resignation became effective on June 30, 1986, the petitioner had a right to withdraw the same and in fact had also exercised that right. The High Court concluded :

"We may notice that this writ petition was filed at a stage when the petitioner had not sent his letter dated April 15, 1986 whereby he withdrew his resignation letter dated January 21, 1986. This is a subsequent development during the pendency of the writ petition. Therefore, we are not called upon to decide the earlier grievance that the resignation could not have been accepted at an earlier date. Even to that submission we would have said that there is no provision of acceptance but that question does not arise so we will not deal with it further. Result is that the impugned order dated February 7, 1986 is hereby quashed and it is declared that the petitioner continues to be in service with the respondent-bank. However, in view of the facts of the present case, parties are directed to bear their own costs of the present proceedings."

4. The bank has preferred this appeal. Dr. Anand Prakash, learned counsel for the appellant-bank, submitted that Regulation 20(2) provided for a notice to the employer only in order to protect the employer's interests and to enable the employer, in case it decided to accept the resignation, to make other arrangements in place of the resigning employee. He submitted that, this being a provision for the benefit of the employer, its requirements could be waived by the employer, if it so desired, unilaterally. The proviso to clause (2) of the regulation indeed makes it clear that it is open to the bank to waive the requirement of notice or to reduce the period of the notice to less than three months. He, therefore, submitted that, when the respondent sent in his resignation on January 21, 1986, it was not incumbent on the bank to wait till June 30, 1986 when the notice period would expire. It was competent for the bank to waive any notice at all and to accept the resignation with immediate effect or with effect from such other date as the bank may consider appropriate. It was further contended by learned counsel that, once the resignation letter of the respondent had been accepted by the bank and given effect to, there was no further possibility of the respondent seeking to withdraw the resignation letter as he has purported to do in this case. Learned counsel, therefore, submitted that the bank's letter dated February 7, 1986 was quite valid and effective and that the respondent's writ petition ought to have been dismissed.

5. We have given careful thought to this contention of the learned counsel and we are of the opinion that the High Court was right in the conclusion it reached. Clause (2) of Regulation 20 makes it incumbent on an officer of the bank, before resigning, to serve a notice in writing of such proposed resignation and the clause also makes it clear that the resignation will not be effective otherwise than on the expiry of three months from the service of such notice. 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. On this interpretation, the letter dated January 21, 1986 sent by the employee fully complied with the terms of this clause. Though the letter was written in January 1986 the employee gave more than three clear months' notice and stated that he wished to resign with effect from June 30, 1986 and so the resignation would have become effective only on that date. 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. On this interpretation, the respondent's resignation would have taken effect on or about April 21, 1986 even though he had mentioned a

later date. 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, as is to be found in other rules, such as the Government Services Conduct Rules.

6. Much reliance was placed on the terms of the proviso to clause (2) of Regulation 20 to justify the action of the bank in terminating the respondent's services earlier but we do not think that the proviso can be interpreted in the manner suggested by learned counsel for the bank. The resignation letter of the officer has to give at least three months' advance notice under the main part of the clause. What the proviso contemplates is that in a case where the employee desires that his resignation should be effective even before the expiry of the period of three months or without notice being given by him, the bank may consider such a request and waive the period of requirement of notice if it considers it fit to do so. That question does not arise in the present case because the employee had not requested the bank to reduce the period of notice or to waive the requirement of notice. Dr. Anand Prakash seeks to interpret the proviso as empowering the bank, even without any request on the part of the employees, to reduce the period or waive the requirement of notice. In other words, he says that the bank has power to accept the resignation with immediate effect even though the notice is only of a proposed future resignation. We do not think this contention can be accepted. As we have already mentioned, resignation is a voluntary act of an employee. He may choose to resign with immediate effect or with a notice of less than three months if the bank agrees to the same. He may also resign at a future date on the expiry, or beyond the period, of three months but for this no further consent of the bank is necessary. The acceptance of the argument of Dr. Anand Prakash would mean that, even though an employee might express a desire to resign from a future date, the resignation can be accepted, even without his wishes, from an earlier date. This would not be the acceptance of a resignation in the terms in which it is offered. It amounts really to forcing a date of termination on the employee other than the one he is entitled to choose under the regulations. As rightly pointed out by the High Court, the termination of service under clause (2) becomes effective at the instance of the employee and the services of the employee cannot be terminated by the employer under this clause.

7. Dr. Anand Prakash emphasises that as clause (2) and its proviso are intended only to safeguard the bank's interests they should be interpreted on the lines suggested by him. We are of the opinion that clause (2) of the regulation and its proviso are intended not only for the protection of the bank but also for the benefit of the employee. It is common knowledge that a person proposing to resign often wavers in this decision and even in a case where he has taken a firm decision to resign, he may not be ready to go out immediately. In most cases he would need a period of adjustment and hence like to defer the actual date of relief from duties for a few months for various personal reasons. Equally an employer may like to have time to make some alternative arrangement before relieving the resigning employee. Clause (2) is carefully worded keeping both these requirements in mind. It gives the amulet a period of adjustment and rethinking. It also enables the bank to have some time to arrange its affairs, with the liberty, in an appropriate case, to accept the resignation of an employee even without the requisite notice if he so desires it. The proviso in our opinion should not be interpreted as enabling a bank to thrust a resignation of an employee with effect from a date different from the one on which he can make his resignation effective under the terms of the regulation. We, therefore, agree with the High Court that in the present case the resignation of the employee could have become effective only on or about April 21, 1986 or on June 30, 1986 and that the bank could not have "accepted" that resignation on any earlier date. The letter dated February 7, 1986 was, therefore, without jurisdiction.

8. The result of the above interpretation is that the employee continued to be in service till April 21, 1986 or June 30, 1986, on which date his services would have come normally to an end in terms of his letter dated January 21, 1986. But, by that time, he had exercised his right to withdraw the resignation. Since the withdrawal letter was written before the resignation became effective, the resignation stands withdrawn, with the result that the respondent continues to be in the service of the bank. It is true that there is no specific provision in the regulations permitting the employee to withdraw the resignation. It is, however, not necessary that there should be any such specific rule. Until the resignation becomes effective on the terms of the letter read with Regulation 20, it is open to the employee, on general principles, to withdraw his letter of resignation. That is why, in some cases of public services, this right of withdrawal is also made subject to the permission of the employer. There is no such clause here, it is not necessary to labour this point further as it is well settled by the earlier decisions of this Court in *Raj Kumar v. Union of India* ((1968) 3 SCR 857 : AIR 1969 SC 180 : 1969 Lab IC 310), *Union of India v. Gopal Chandra Misra* ((1978) 3 SCC 301 : 1978 SCC (L&S) 303 : (1978) 3 SCR 12) and *Balram Gupta v. Union of India* (1987 Supp SCC 228 : 1988 SCC (L&S) 126).

9. Learned counsel for the appellant relied on certain observations in *Delhi Electric Supply Undertaking v. Tara Chand* ((1978) 2 SLR 425 (Del)). Certain other decisions were also cited by Dr. Anand Prakash but we do not think that they have any bearing on the issue before us. *Tara Chand* ((1978) 2 SLR 425 (Del)). was a case under Regulation 8 of the regulations made by the Delhi Electric Supply Undertaking under the Electricity (Supply) Act, 1948. The regulation permitted the termination of the services of a servant of the undertaking "on notice of the three months from either side without any cause to be assigned in case of permanent servants". The employee in that case sent a letter to the employer stating that "he was compelled to resign for various reasons" and this resignation was accepted by the undertaking. The Delhi High Court in its judgment (to which one of us was a party) 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. 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.

10. For the reasons discussed above, we affirm the decision of the High Court and dismiss this appeal. As the employee has got a relief much larger than the one for which he initially came to court and which had been made possible by his subsequent conduct, we make no order as to costs.

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