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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

ON THE 4th OF JANUARY, 2024

WRIT PETITION No. 938 of 2013

BETWEEN:-

**MADHAV PRASAD PANDEY S/O SHRI SHAYAM SUNDER
PANDEY, AGED ABOUT 57 YEARS, VILL BANDHA P.O.
RAMPUR BAGHAELAN (MADHYA PRADESH)**

.....PETITIONER

(NONE FOR THE PETITIONER)

AND

- 1. THE STATE OF MADHYA PRADESH THR
SECRETARY HOME DEPARTMENT
MANTRALAYA, VALLABH BHAWAN (MADHYA
PRADESH)**
- 2. DIRECTOR GENERAL OF POLICE DISTT. BHOPAL
(MADHYA PRADESH)**
- 3. DEPUTY INSPECTOR GENERAL OF POLICE DISTT.
REWA (MADHYA PRADESH)**
- 4. SUPERINTENDENT OF POLICE DISTT. REWA
(MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI ARNAV TIWARI - PANEL LAWYER)

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*This petition coming on for orders this day, the court passed the
following:*

ORDER

Petitioner's contention is that petitioner was working as a 'Constable' in the Police Department. Due to torture meted out to him, he had submitted his resignation in February, 1994. That resignation was accepted by the

Superintendent of Police, District Rewa on 13/06/1994. Thereafter, he had moved an application to reinstate him in service which was disallowed by the Director General of Police, Police Headquarters. Thereafter, petitioner made several communications which were not entertained.

Petitioner has sought issuance of writ against the respondents seeking quashing of the orders Annexures P-1 to P-4 with a further direction to the respondents to reinstate the petitioner in service with all consequential benefits and interest @ 14 % per annum.

State has filed its return and has categorically taken a stand that since petitioner submitted his resignation as contained in Annexure R-1 and the same was accepted, there is no provision for reinstatement after acceptance of the resignation and thus, petitioner is not entitled to the relief claimed by him.

It is pointed out by Shri Arnav Tiwari, learned Panel Lawyer that infact after submission of his resignation, it cannot be said that petitioner had submitted his resignation to the Superintendent of Police on 9/05/1994 asking him to accept his resignation forthwith. Since, resignation has been accepted, there is no provision for reinstatement subsequent to acceptance of the resignation and, therefore, the petition is liable to be dismissed.

It is also submitted that there is inordinate delay in filing the petition, in as much as, the resignation was accepted in June, 1994 whereas the petition was filed in the year 2013 i.e. after a delay of about 19 years.

A careful perusal of the petition reveals that Annexure P-1 is the final order passed by the Superintendent of Police, Rewa inflicting penalty of stoppage of one increment for a period of one year with further stipulation that punishment will not have any impact on future increment/pension i.e. order Annexure P-1 is the order inflicting minor penalty and stoppage of one

increment without cumulative effect. Date of this order is 23/01/1992.

Annexure P-2 is the order passed by the Superintendent of Police, Rewa on 12/07/1993 where on the charge of dereliction of duty to not to appear for duty on 2/01/1993 and for being found in intoxicated condition in police uniform taking a lenient view, punishment of stoppage of one increment without cumulative effect was inflicted on the petitioner.

Annexure P-3 is the order dated 10/01/1994 whereby in terms of the orders of the appellate authority, earlier punishment imposed on 23/01/1992 was set aside.

Annexure P-4 is the intimation given by the petitioner in regard to the incident which had taken place with him in Howrah Mumbai up train where he had lost his driving license etc.

This intimation has nothing to do with any disciplinary action taken against the petitioner.

It has come on record that on 14/02/1994, petitioner had moved an application for voluntary retirement and which when was not accepted, then he had made a representation on 19/05/1994 but despite counselling, he refused to take back his request for voluntary retirement, as a result, his resignation was accepted on 13/06/1994 and, thereafter, he moved an application for his reinstatement after sixteen years on 9/07/2010 which was turned down vide Annexure P-6.

Thereafter, petitioner had moved an application for review to review the order dated 22/07/2010 Annexure P-6 which was turned down vide order dated 14/01/2011 Annexure P-7.

Now, the issue which emerges for decision is that when once an

application for reinstatement/voluntary retirement is made and is accepted, then whether it is open to the Government to permit the employee to withdraw such application.

The law in this regard is laid down in the case of **P. Lal Vs. Union of India (2003) 3 SCC 393** wherein it is held that moment the Government accepted the notice for voluntary retirement, the retirement became effective and relationship of Master and Servant stood severed.

Neither communication nor gazette notification of acceptance was necessary for that purpose. Thus, it is held that grant of promotion at a subsequent stage for withdrawal of voluntary retirement is bad in law and, therefore, in view of the law laid down by the Supreme Court in **P.Lal (supra)**, request for reinstatement once resignation was accepted could not have been entertained by the court.

The law in regard to resignation is that concept is bilateral and requires acceptance and it follows that offer of resignation can be withdrawn before acceptance as is held by the Supreme Court in **Union of India Vs. Gopal Chandra Misra AIR 1978 SC 694, Ravindra Singh Vs. State of M.P. (1995) 3 SLJ 65 (SC)** and thus, it is evident that once resignation was made and it was accepted, then its withdrawal after acceptance is not permissible as held in case of **G. Kailashapathi Rao Vs. Committee of Bandlamudi Hanumayanama Hindu Degree Junior College for Women 1994 (2) SLR 554 (AP)**.

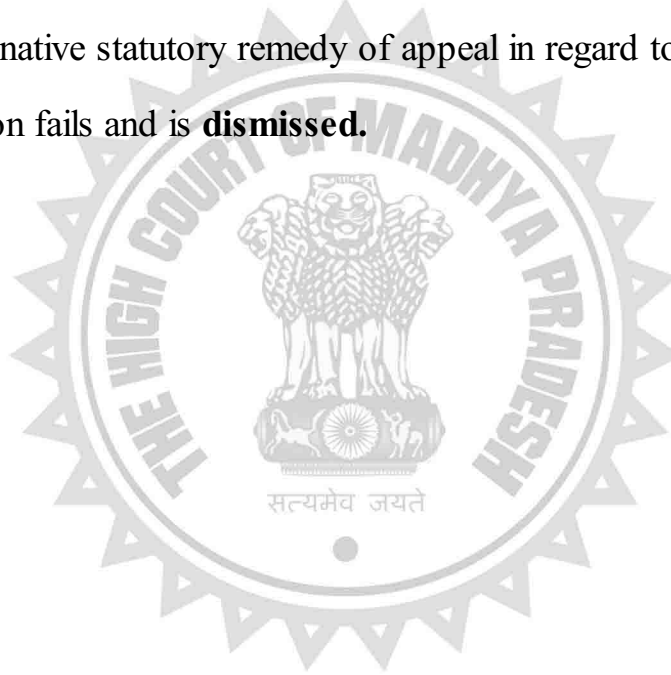
Thus, once the resignation was accepted, there cannot be any withdrawal as the bilateral relationship of Master and Servant has ceased to exist. Therefore, when considered from this aspect also, the impugned action of the respondents in denying to accept the request of the petitioner to permit him to

be reinstated cannot be faulted with.

As far as orders of punishment is concerned, Annexures P-1, P-2 and P-3 are all appealable orders. Petitioner never file any statutory appeal against the orders of punishment. In 2013 i.e. after almost 20 years of punishment being inflicted putting them to challenge cannot be said within the prescribed period of limitation.

Therefore, petition being hopelessly barred by limitation so to challenge the said orders too is not made out calling for interference of the writ court and, therefore, on the ground of delay and laches and also on account of failure to avail alternative statutory remedy of appeal in regard to Annexures P-2 and P-3, the petition fails and is **dismissed**.

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**(VIVEK AGARWAL)
JUDGE**