

**THE HIGH COURT OF JUDICATURE FOR MADHYA
PRADESH AT JABALPUR**
(Division Bench)

Writ Appeal No.497/2021

Lavlesh Kumar MishraAppellant/writ-petitioner

Versus

The Madhyanchal Gramin Bank and othersRespondents

Coram:

Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice
Hon'ble Mr. Justice Vijay Kumar Shukla, Judge

Presence :

Shri Praveen Dubey, Advocate for the appellant/writ petitioner.
Shri Ashish Shrotri, Advocate for the respondents.

Whether approved for reporting- Yes

Law laid down:

Writ Appeal directed against the order of the Single Bench dismissing the writ petition filed against order passed by the respondent-Bank accepting the resignation of the appellant.

Taking note of the facts, if we consider letter of resignation dated 16.9.2017, it is found that this letter of resignation is unconditional one and without any kind of reservation and in fact it refers to Rule 10(1)(b)(i) of the Service Regulations and categorically states that "kindly accept my intention to discontinue my service further after three months".

As per rule 10 of the Madhyanchal Gramin Bank (Officers and Employees) Service Regulations, 2010, service of a confirmed employee would get terminated/discontinued upon his serving notice of three months expressing his intention to leave or discontinue his services or resign. The appellant by letter of resignation dated 16.9.2017 made his intention known by serving the notice under the said provision, by not only referring to the relevant rule, but also by requesting for acceptance of his intention for discontinuation from service after three months. The letter of resignation was submitted on 19.9.2017 and therefore, notice period of three months was completed on 19.12.2017. Although the appellant has argued that he submitted an application for withdrawal of his resignation on 31.12.2017, but in fact the respondent-Bank along with I.A.No.6661/2021 has produced record of these proceedings and copy of an application submitted by him on 19.12.2017 addressed to the General Manager (Administration), Madhyanchal Gramin Bank, Sagar, wherein the appellant categorically stated that he had given notice of resignation on 19.9.2017 and requested that resignation may please be accepted from 19.12.2017. There was thus reiteration of intention of the appellant to consciously resign from service of respondent-Bank by submitting the letter of resignation with notice of three months. Two facts emerge from the facts of the present case, first that after submitting unconditional resignation vide letter dated 16.9.2017, the appellant did not ponder over the matter to reconsider his decision

for withdrawal of the aforesaid resignation, within notice period of three months, which he did not do and second, that the appellant actually did not withdraw the resignation. On the contrary, on the last date of expiry of notice period of three months i.e. on 19.12.2017, he submitted a fresh application categorically stating that the notice period of resignation has come to an end on 19.12.2017 and therefore, his resignation may now be accepted. But the appellant thereafter by change of mind submitted another application on 31.12.2017 requesting to withdraw his resignation which could not have been accepted by the respondent-Bank because his earlier letter of resignation dated 19.09.2017 had already been acted upon and was lawfully accepted by the respondent-Bank. Howsoever this Court may sympathise with the appellant considering that he is an ex-army man, but the Court has to scrutinise the decision of the respondents in not accepting his request for withdrawal made on 31.12.2017 on the anvil of the law applicable on the subject. What cannot be lost sight of is that even if the appellant was having unstable state of mind when he submitted the letter of resignation on 19.9.2017 but all through the notice period of three months i.e. on 19.12.2017, when he had been working far away from earlier Branch and there was no repetition of any untoward incident with him in the intervening period, in the normal course, he is supposed to have regained his cool and stability of mind and if at all he wanted, he could have decided to withdraw the resignation within the notice period of three months, which he did not do.

It is a trite that a judgment for the purpose of precedent can be relied upon for the proposition of law that it actually decided and not for what can be logically deduced from it, for difference of a minor fact would make a lot of change in the precedential value of the judgment.

Reference made to

Dr. Prabha Atri Vs. State of U.P. and others (2003) 1 SCC 701

J.K.Cotton Spinning and Weaving Mills Vs. State of U.P. (1990) 4 SCC 27

Punjab National Bank Vs. P.K.Mittal AIR 1989 SC 1083

P.K.Ramachandra Iyer and others Vs. Union of India and others (1984) 2 SCC 141

Union of India Vs. Gopal Chandra Misra AIR 1978 SC 694,

Rule 10 of the Madhyanchal Gramin Bank (Officers and Employees) Service Regulations, 2010

Significant Paragraphs:- 9 to 19

Hearing convened through Video Conferencing:

JUDGMENT

(Pronounced on 25.08.2021)

Per: Mohammad Rafiq, C.J.

1. This appeal under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal), Adhinyam, 2005 is directed against the judgment of the Single Bench dated 06.01.2021, whereby the writ petition (W.P.No.3607/2018) filed by appellant Lavlesh Kumar Mishra has been dismissed. The appellant in the writ

petition assailed the order dated 20.12.2017 (Annexure P/1) accepting his resignation dated 19.09.2017 and prayed for a further direction to the respondents No.1 to 4 to reinstate him in service and grant him salary with all the consequential benefits.

2. The facts as stated by the appellant are that he is an ex-serviceman. He was appointed on 21.11.2015 on the post of Office Assistant (Multipurpose) with the respondent-Madhyanchal Gramin Bank (A Joint Venture of the Government of India, State Bank of India and Government of Madhya Pradesh). On successful completion of probation period, he was confirmed on the aforesaid post vide order dated 17.06.2017. According to the appellant, while he was posted at Branch Baraundha, District Satna under the respondent No.4, the respondent No.5 Phool Chand Patel, who was a local politician and an old defaulter of the respondent Bank, came to the branch office with one Jageshwar Prasad, a beneficiary of a certain government scheme and pressurized the appellant to transfer money payable under that scheme to his account, having different name and particulars. The appellant advised him to get a new account opened in his name so that the money received under the government scheme could be transferred. The respondent No.5 however using his local influence pressurized the appellant to act against the Rules. When the appellant refused to oblige, he started shouting and abusing him and threatened him with dire consequences. The appellant reported the matter to the local Police Station on 21.08.2017 but due to political influence of the respondent No.5, the SHO of the Police Station did not lodge the FIR. The appellant then on 22.8.2017 submitted a written complaint to

respondent No.4-Regional Manager of the Bank for taking appropriate action and giving him security and also reported the incident to the higher officials of the Bank i.e. respondents No.1 and 3 by e-mail. Thereafter, on 24.08.2017, the appellant detailing the checkered history of the respondent No.5 and his family members, submitted a representation to respondent No.4- Regional Manager of the Bank seeking due action in the matter. It was also mentioned by the appellant that even a criminal case on the basis of complaint filed by one Smt. Meena Chaurasiya for misappropriating the fund and illegal withdrawal of amount was registered against the respondent No.5. Despite all this, the respondents No.1 to 4 maintained sphinx like silence. Emboldened by their such attitude, the respondent No.5 openly started threatening the appellant on phone and otherwise.

3. The appellant thereafter submitted an application on 25.08.2017 to the respondent No.4- the Regional Manager of the Bank, seeking his transfer to any other Branch like Majhgawan, Kamadgiri or Paldev, but the respondent No.4 did not take any action. In order to overcome the pressure of respondent No.5 and apprehending danger to his life, the appellant submitted a detailed complaint against him to the Superintendent of Police, Satna on 26.08.2017. Still when nothing happened due to political influence of the respondent No.5, the appellant was constrained to file a criminal complaint against him in the Court of the Chief Judicial Magistrate, Chitrakoot District Satna under Section 156(3) of the Criminal Procedure Code. Due to his bad luck, the said complaint was also rejected granting liberty to file another one for the cognizable offences in accordance with law. On the

contrary, the respondent No.5 made a complaint against the appellant to the Minister, Civil Supplies Department during his visit to Satna on 22-24.08.2017, on which a report was sought from respondent No.4 Regional Manager by the officials of the Allahabad Bank, Satna and also the office of Collector, Satna. This put the appellant in a precarious condition inasmuch as the respondents No.1 to 4 did not take any action for protection or security of the appellant. Exasperated by all this, the appellant submitted a letter dated 3.9.2017 to the respondent Bank, wherein, he, out of frustration referring to the callous and non-cooperative attitude of the respondents No.1 to 4, made a request to accept his resignation with effect from 16.9.2017. Responding to this letter, the respondent No.3 passed an order on 11.9.2017 whereby the appellant was relieved to join at the Kamadgiri Branch. The appellant complied with the same and joined at Kamadgiri Branch. This was a temporary arrangement for only 90 days and not a regular transfer order. Despite the fact that the appellant was regularly requesting the respondents to transfer him out of Baraundha, the respondent No.4 orally informed the appellant that due to shortage of staff, he cannot be permanently transferred out of Baraundha. This created a huge pressure and mental depression on the appellant. Therefore, looking to the callous, non-cooperative and obstinate attitude of the respondents No.1 to 4, the appellant under duress submitted his resignation from service on 19.9.2017 to be effective after three months. For some time however, no action was taken on the said application. But in the meantime, the appellant was suddenly informed telephonically on 19.12.2017 that instead of taking a positive action on the grievance of

the appellant, his resignation has been accepted. The appellant being aggrieved thereby submitted a representation on 31.12.2017 to the respondents No. 2 to 4 seeking cancellation of his resignation, which was submitted due to unavoidable and compelling circumstances as the respondents No.1 to 4 were not taking steps to remove his problems. The appellant however by order dated 20.12.2017, which was received by him on 30.1.2018, was relieved from service accepting his under protest resignation made on account of exasperation and feeling of frustration. Hence, the writ petition was preferred.

4. Shri Praveen Dubey, learned counsel for the appellant has argued that the application/letter of resignation submitted by the appellant cannot be said to be a voluntary letter of resignation. The appellant submitted his resignation out of exasperation and frustration as his grievances were not being remedied inasmuch as the respondents No.1 to 4 were not taking any action to provide protection and security to him and were not considering his request for permanently transferring him to another branch. The appellant was not having any personal grudge against the respondent No.5 but the dispute arose in the course of employment during duty hours in branch office of the Bank itself. Despite repeated requests, when no action was taken by the respondent Bank, the appellant out of frustration submitted the first request of resignation on 3.9.2017, on which the respondent-Bank somewhat redressed his grievance by temporarily transferring him to another branch Kadamgiri on his own request only for 90 days but did not permanently solve his problem. The appellant out of exasperation and frustration again submitted his resignation on 19.9.2017 stating his

intention to discontinue service further after three months. The respondent-Bank mechanically accepted this resignation on 20.12.2017 without considering the mental plight of the appellant.

5. Relying on the judgment of the Supreme Court in **Dr. Prabha Atri Vs. State of U.P. and others** (2003) 1 SCC 701, learned counsel for the appellant submitted that the case of the appellant is squarely covered by the said judgment and prayed that this appeal may be allowed and the impugned order accepting his resignation may be set aside. Learned counsel argued that the learned Single Judge failed to appreciate the case of the appellant in proper perspective. The factum of repeated representations and complaints made by the appellant to local police remained undisputed inasmuch as the appellant filed a criminal complaint in the Court, which substantially corroborated his apprehension of threat to his life and property. The finding recorded by the learned Single Judge that there was no threat to life is wholly perverse and erroneous. The learned Single Judge failed to appreciate that the appellant, besides seeking action against the respondent No.5, was also requesting for giving protection to him by way of transfer to another place, but the same went unheeded. Even the short term transfer was made for 90 days on his own request. This created huge frustration in the mind of the appellant resulting in the form of pressurized and exasperated resignation. The impugned order was mechanically passed by the respondent No.3 without application of mind. The learned Single Judge failed to appreciate the unfortunate incident which took place on 21.8.2017. The appellant started living in fear, which is evident from the repeated representations made by him.

The respondent-Bank under the guise of shortage of staff did not take any action and only temporarily attached the appellant to another branch for hardly three months. It was argued that the respondent No.5 was having a checkered history. He was persistent defaulter of the respondent-Bank, whose six out of seven loan transaction accounts have been declared as non-performing asset (NPA). Yet, instead of taking penal action against the respondent No.5, the respondent-Bank succumbed to his political pressure at the cost of sincere employee like the appellant. Learned counsel in support of his arguments has also relied upon the judgment of Supreme Court in **P.K.Ramachandra Iyer and others Vs. Union of India and others** (1984) 2 SCC 141.

6. Shri Ashish Shroti, learned counsel for the respondents opposed the appeal and supported the judgment of the learned Single Judge. He argued that learned Single Judge was perfectly justified in holding that the appellant consciously tendered his resignation on 19.9.2017 expressing clear intention to leave the service of the Bank with three months' notice as required under Rule 10(1)(a) of the Madhyanchal Gramin Bank (Officers and Employees) Service Regulations, 2010 (hereinafter referred to as "Service Regulations"). Such resignation cannot be said to have been submitted by him under any kind of duress or mental pressure. Arguments of the appellant are contrary to the facts on record. Although it is a fact that the appellant brought the incident to the notice of the management, which took place with him but he himself took all legal action against the respondent No.5 by lodging a complaint with police and then by filing a private complaint against him in the Court. The Court got the matter enquired through the local

police and found no substance in the complaint. Since the incident which took place on 21.8.2017 was reported to the respondent No.4-Regional Manager on 22.8.2017 requesting for his transfer to another branch, the respondent No.4 transferred him to Kamadgiri Branch on his choice, albeit for 90 days, vide order dated 11.9.2017. Without waiting for further orders, the appellant tendered resignation on 3.9.2017 with effect from 16.9.2017. Later on realizing that it was not in accordance with Rule 10 of the Service Regulations, he tendered another resignation on 19.9.2017 giving three months' notice as required under Rule 10(1)(a) and (b) expressing his intention to discontinue his service. The management was perfectly justified in accepting his resignation on expiry of three months and informed him telephonically on 19.12.2017, vide order/communication dated 20.12.2017. The very fact that the appellant had submitted second letter of resignation on 19.9.2017 with notice of three months clearly goes to show that there was conscious decision taken by him. There was more than enough time available to him to ponder over the matter during the period of notice about three months and withdraw the same. On the contrary, the appellant submitted another application on 19.12.2017 stating that since the notice period has ended, his resignation may now be accepted.

7. Shri Ashish Shroti, learned counsel submitted that the judgment of the Supreme Court in **Prabha Atri's** case (supra) relied on by the appellant, is distinguishable on facts. In that case, the employee tendered conditional resignation on account of pending departmental inquiries. The present case is totally different from that case. In the

present case, the appellant voluntarily tendered his resignation giving three months notice and then did not even withdraw the same during period of notice. The resignation letter submitted under the statutory Service Regulations, which govern the terms and conditions of service of officers and employees of the Bank, has rightly been accepted. The resignation under Rule 10(1)(a) and (b) comes into effect automatically on expiry of the notice period. Therefore, no fault can be found with the action taken by the respondent-Bank. Learned counsel for the respondents in support of his arguments relied on the judgments of the Supreme Court in **Union of India Vs. Gopal Chandra Misra** AIR 1978 SC 694, **Punjab National Bank Vs. P.K.Mittal** AIR 1989 SC 1083 and **J.K.Cotton Spinning and Weaving Mills Vs. State of U.P.** (1990) 4 SCC 27.

8. We have given our anxious consideration to the rival submissions and perused the impugned order and record available.

9. The petitioner, who is an ex-army man, having retired from the Indian Army Service, was appointed on 21.11.2015 in the service of the respondent-Bank in that quota on the post of Office Assistant (Multipurpose). On completion of probation period, he was confirmed on the said post on 17.06.2017. An incident referred to above had taken place in the Bank at Branch Baraundha, District Satna on 21.8.2017 in which according to the appellant, the respondent No.5 pressurised him to transfer the amount in the account of one Jageshwar Prasad contrary to the Rules and on his refusal, he started shouting and abusing him and threatened him with dire consequences. The appellant reported the said incident to local police station on 21.8.2017. When the SHO of the

concerned Police Station did not lodge the FIR, the appellant on 22.8.2017 submitted a written complaint to respondent No.4-Regional Manager of the Bank for taking appropriate action and giving him security and also reported the incident to the higher officials of the Bank i.e. respondents No.1 and 3 by e-mail. Thereafter, on 24.08.2017, the appellant submitted a representation to respondent No.4- Regional Manager of the Bank intimating the checkered history of the respondent No.5 and his family members. It was also communicated by the appellant that even a criminal case on the basis of complaint case filed by one Smt. Meena Chaurasiya for misappropriating the fund and illegal withdrawal of amount was registered against the respondent No.5. In these circumstances, the appellant submitted an application to the respondent No.4 on 25.8.2017 seeking his transfer to another place giving option of Branch Majhgawan, Kamadgiri or Paldev. The appellant also submitted a detailed complaint against respondent No.5 to the Superintendent of Police, Satna on 26.08.2017, but as per his assertion, no action was taken against him due to political influence of the respondent No.5. Thereafter, he filed a criminal complaint against him in the Court of the Chief Judicial Magistrate, Chitrakoot District Satna under Section 156(3) of the Criminal Procedure Code, which was rejected granting liberty to file appropriate application for the cognizable offences in accordance with law. On the contrary, the respondent No.5 filed a complaint against the appellant to the Minister, Civil Supplies Department during his visit on 22-24.08.2017 in Satna, on which a report was sought from respondent No.4 Regional Manager vide letter dated 28.9.2017 by the officials of the Allahabad Bank,

Satna and also the office of Collector, Satna. The appellant has thus explained that it was after reporting the incident to several authorities that he submitted the first letter of resignation on 3.9.2017 referring to the callous and non-cooperative attitude of the respondent-Bank in accepting his resignation with effect from 16.9.2017.

10. A perusal of aforesaid letter of resignation dated 3.9.2017 indicates that in the first part thereof, the appellant has begun by giving reference to the incident which happened on 21/8/2017 while he was on duty but no cooperation was given to him by the Bank officials as well as District Administration. In next para, he has again written that he is submitting his resignation with effect from 16.9.2017 due to severe mental pressure felt by him and after this incident, it was difficult for him to carry on this job further. Acting on this letter, the respondent-Bank attached him to Kadamgiri Branch for a period of 90 days and relieved him vide order dated 11.9.2017 to join in that Branch with immediate effect. It was made clear that since his transfer was being made on his own request, he shall not be entitled to any transfer allowance. It was after these many developments that the appellant finally on 19.9.2017 submitted a letter of resignation to the Bank expressing his clear intention to discontinue from service after three months, which has been taken as notice of three months service. According to the appellant, he was telephonically informed by the respondent Bank on 19.12.2017 that his resignation has been accepted with effect from 19.12.2017 and he was relieved from service from that date. The appellant then approached the Headquarters on 31.12.2017 and submitted an application stating that since his resignation was

submitted under pressure, he requested for reconsideration of the same and also requested for permanently transferring him to a nearby Branch.

11. Before embarking on examination of the case on merits, let us begin with analysing the precedents cited at the Bar. The Supreme Court in **P.K.Ramchandra Iyer and others Vs. Union of India and others** (1984) 2 SCC 141 was dealing with a case where the post of Senior Biochemist was abolished and the respondent No.6 scored a march over his colleagues in the matter of pay-scale to which he was not entitled. One of the petitioners Dr.Y.P.Gupta contended before the Supreme Court that respondent No.6 Dr.S.L.Mehta was not qualified for being selected on the post of Senior Biochemist as he did not fulfil the prescribed norms of qualification for the post when selected. Dr. Gupta was put in the lower scale of pay while Dr. Mehta was granted higher pay-scale. The second grievance of Dr.Gupta was that he was illegally removed from the membership of the Post-graduate Faculty by the Academic Council. He felt that he was unjustly treated by his superiors by not allocating students for Ph.D. to him and by not facilitating post-graduate teaching. There was a long drawn-out correspondence in this behalf with the authorities. Finally, he submitted a letter dated 30.5.1970 which was treated by the Academic Council as a letter of resignation of Dr. Gupta from the membership of the Faculty. By this letter Dr. Gupta informed the Academic Council that even though he was repeatedly assured that his grievance would be thoroughly examined and full justice would be done to him for the discrimination and victimisation to which he was subjected but nothing

has been done in this behalf. He mentioned that he has been all along patiently waiting for the redressal of his grievance, yet justice has not been done to him. He then stated as under:-

“As such, after showing so much patience in the matter, I am sorry to decide that I should resign from the membership of the Faculty in protest against such a treatment and against the discrimination and victimisation shown to me by the Head of the Division in the allotment of students of 1968 and 1969 batches and departmental candidates.”

In those facts, the Supreme Court held that acceptance of the resignation in the facts of the case amounted to removal. Relevant discussion is found in para 34 of the report, which reads as under:-

“.....The callous and heartless attitude of the Academic Council is shocking. It adds insult to injury. Dr. Gupta has been the victim of unfair treatment because he raised a voice of dissent against certain claims made by the high-up in ICAR in the field of Research. Avoiding going into the details of it, this resulted in Dr. Gupta being denied the allocation of students. He did not act in a precipitate manner. He went on writing letter after letter even including to respondent No.4 beseeching him to look into the matter and to render justice to him. When everything fell on deaf ears, out of exasperation he wrote letter dated May 30, 1970 in which he stated that the only honourable course left open to him was to resign rather than suffer. The Council seized upon this opportunity to get rid of Dr. Gupta.....”

12. In Dr. Prabha Atri Vs. State of U.P. and others (2003) 1 SCC 701, the Supreme Court was dealing with a case where appellant Dr. Prabha Atri was an Anaesthetist in Kamla Nehru Memorial Hospital, Allahabad. She was issued a memo dated 5.1.1999 attributing to her a certain act of omission and stating that such conduct amounted to negligence as per Hospital Service Rule 10(i) and was also against medical ethics. She was asked to submit her explanation by 6.1.1999

failing which matter would be proceeded against her *ex parte*. In the absence of a reply from her, she was suspended on 8.1.1999 pending a domestic enquiry. She submitted her explanation on 9.1.1999 stating that if her explanation was found to be not acceptable, then she would have no option left but to tender her resignation with immediate effect. The respondents on 9.1.1999 passed three separate orders, one of which stated that the suspension order could not be withdrawn as the appellant's explanation was not satisfactory, the second order purportedly accepted her resignation and the third order stopped the proposed domestic enquiry. The case of the appellant was that she on 14.1.1999 submitted to the respondents that in fact she had not resigned but had shown only an intention to resign, the appellant sought rectification of the mistaken understanding of her earlier letter. However, her effort went in vain. She then approached the High Court but remained unsuccessful. Thereafter, the appellant preferred an appeal before the Supreme Court. In those facts, the Supreme Court in para 10 of the judgment held as under:-

“10. We have carefully considered the submissions of the learned counsel appearing on either side, in the light of the materials and principles, noticed *supra*. This is not a case where it is required to consider as to whether the relinquishment envisaged under the rules and conditions of service is unilateral or bilateral in character but whether the letter dated 9.1.1999 could be treated or held to be a letter of resignation or relinquishment of the office, so as to sever her services once and for all. The letter cannot be construed, in our view, to convey any spontaneous intention to give up or relinquish her office accompanied by any act of relinquishment. To constitute a 'resignation', it must be unconditional and with an intention to operate as such. At best, as observed by this Court in the decision in *P.K. Ramachandra Iyer (supra)* it may amount to a threatened offer more on account of exasperation, to resign on

account of a feeling of frustration born out of an idea that she was being harassed unnecessarily but not, at any rate, amounting to a resignation, actual and simple. The appellant had put in about two decades of service in the Hospital, that she was placed under suspension and exposed to disciplinary proceedings and proposed domestic enquiry and she had certain benefits flowing to her benefit, if she resigns but yet the letter dated 9.1.1999 does not seek for any of those things to be settled or the disciplinary proceedings being scrapped as a sequel to her so-called resignation. The words 'with immediate effect' in the said letter could not be given undue importance de hors the context, tenor of language used and the purport as well as the remaining portion of the letter indicating the circumstances in which it was written. That the management of the Hospital took up such action forthwith, as a result of acceptance of the resignation is not of much significance in ascertaining the true or real intention of the letter written by the appellant on 9.1.1999. Consequently, it appears to be reasonable to view that as in the case reported in P.K. Ramachandra Iyer (supra) the respondents have seized an opportunity to get rid of the appellant the moment they got the letter dated 9.1.1999, without due or proper consideration of the matter in a right perspective or understanding of the contents thereof. The High Court also seems to have completely lost sight of these vital aspects in rejecting the Writ Petition.”

13. The Supreme Court in **Punjab National Bank** (supra) was dealing with the case of a permanent officer of the bank, who sent a communication to the Bank by which he purported to resign from a future date, specifically stating in the letter dated 21.1.1986 that he wish to resign with effect from 30.6.1986. The appellant-Bank informed the respondent-employee that his resignation letter dated 21.1.1986 has been accepted by the competent authority with immediate effect by waiving the condition of notice and consequently he was being relieved from the service of the bank with effect from the afternoon of 7.2.1986. The Supreme Court held that the resignation would become effective only on expiry of three months from date of

resignation or from a future date as desired by employee. The acceptance of resignation by Bank from earlier date was held to be illegal and was quashed.

14. All these judgments turned out on their own peculiar facts and are nowhere near the fact situation obtaining in the present case. It is a trite that a judgment for the purpose of precedent can be relied upon for the proposition of law that it actually decided and not for what can be logically deduced from it, for difference of a minor fact would make a lot of change in the precedential value of the judgment. The House of Lords in their celebrated decision reported as [1901] A.C. 495 titled **Quinn v. Leatham** aptly observed: (16 of 21) “every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particulars facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that any seem to follow logically from it....”.

15. What can be borne out from the cited judgments especially the judgment of the Supreme Court in **P.K.Ramchandra Iyer** (supra) and **Dr. Prabha Atri** (supra) is that the letter of resignation submitted by the employee is a conditional one requesting the respondents to resolve or settle the grievance and complaint about non-redressal thereof by the employer and such resignation was submitted out of exasperation or frustration and the employer instead of redressing the grievance chooses the easiest path of getting rid of the employee by accepting his

resignation. The acceptance of such resignation was held to be not valid and in such circumstances construed to be a case of removal rather than being that of termination of service by accepting the resignation. In order therefore to decide whether last letter of resignation which the appellant submitted to the General Manager (Admin), H.O. Madhyanchal Gramin Bank falls in such category, it would be appropriate to reproduce the letter dated 16.9.2017 which reads as under:-

“To,

The General Manager (Admin)
H.O. Madhyanchal Gramin Bank
Tili Road Sagar Distt-Sagar (M.P.)

{Through Regional Manager
Regional Office Madhyanchal Gramin Bank
Civil Lines Satna (M.P.)}

Subject : Request for acceptance of my resignation

Sir,

1. I have the honour to state that I am submitting prior notice for my resignation from bank due to my personal unavoidable reasons under bank regulation Chapter-II rule 10(b)(i).
 2. Kindly accept my intention to discontinue my service further after three months.
 3. I will be ever grateful for your kind consideration.
- Thanking you

Your sincerely

Sd/-

Lavalesh Kumar Mishra
Off Asst (12181)
Branch-Kamadgiri (4042)”

Date: 19 Sep 17

16. While it may be true that on 16.9.2017, the appellant submitted his resignation immediately after earlier resignation letter dated 3.9.2017 which was submitted in unstable state of mind as he might have been disturbed from the incident which took place in Baraundha

Branch on 21.8.2017 with the respondent No.5 and instead of permanently redressing his grievances, he was transferred to Kadamgiri Branch only temporarily for a period of 90 days, but it is also equally true that this transfer was made on the own request of the appellant to distance him for the time being from the Baraundha Branch where he had argument with the respondent No.5. The allegation of the appellant about the altercation which he had with respondent No.5 was enquired into by the police, which did not find any substance in the same. Even the criminal complaint filed by him against the respondent No.5 was also dismissed by the Court as it did not find any cognizable offence made out. Again taking note of these facts, if we consider aforesaid quoted letter of resignation, it is found that this letter of resignation is unconditional one and without any kind of reservation and in fact it refers to Rule 10(1)(b)(i) of the Service Regulations and categorically states that “kindly accept my intention to discontinue my service further after three months”.

17. Rule 10 of the Madhyanchal Gramin Bank (Officers and Employees) Service Regulations, 2010 reads as under:-

10. Termination of Service by Notice.-(1) (a) No officer or employee shall leave or discontinue his service in the Bank without first giving notice in writing to the Appointing Authority of his intention to leave or discontinue his service or resign;

(b) The period of notice required shall be,-

(i) three months, in the case of confirmed officer or confirmed employee,

(ii) one month, in the case of officer or employee who is on probation.

(c) In case of breach of clause (b) of sub-regulation (1), an officer or employee shall be liable to pay to the Bank

as compensation a sum equal to his pay for the period of notice required of him.

(2) Notwithstanding anything to the contrary contained in sub-regulation (1), an officer or employee against whom disciplinary proceeding is contemplated or pending shall not leave, discontinue or resign from his service in the Bank without the prior approval of the Appointing Authority and any notice of resignation given by such officer or employee before or during the disciplinary proceeding shall not take effect unless it is accepted by the Competent Authority.

Explanation: For the purposes of this regulation, disciplinary proceeding shall be deemed to be contemplated or pending against an officer or employee if he has been placed under suspension or any notice has been issued to him to show cause why disciplinary proceeding should not be instituted against him until final order are passed by the Competent Authority.”

According to the aforequoted Rule, service of a confirmed employee would get terminated/discontinued upon his serving notice of three months expressing his intention to leave or discontinue his services or resign. The appellant by letter of resignation dated 16.9.2017 made his intention known by serving the notice under the said provision, by not only referring to the relevant rule, but also by requesting for acceptance of his intention for discontinuation from service after three months. The letter of resignation was submitted on 19.9.2017 and therefore, notice period of three months was completed on 19.12.2017. Although the appellant has argued that he submitted an application for withdrawal of his resignation on 31.12.2017, but in fact the respondent-Bank along with I.A.No.6661/2021 has produced record of these proceedings and copy of an application submitted by him on 19.12.2017 addressed to the General Manager (Administration), Madhyanchal Gramin Bank, Sagar, wherein the appellant categorically

stated that he had given notice of resignation on 19.9.2017 and requested that resignation may please be accepted from 19.12.2017. There was thus reiteration of intention of the appellant to consciously resign from service of respondent-Bank by submitting the letter of resignation with notice of three months. Two facts emerge from the facts of the present case, first that after submitting unconditional resignation vide letter dated 16.9.2017, the appellant did not ponder over the matter to reconsider his decision for withdrawal of the aforesaid resignation, within notice period of three months, which he did not do and second, that the appellant actually did not withdraw the resignation. On the contrary, on the last date of expiry of notice period of three months i.e. on 19.12.2017, he submitted a fresh application categorically stating that the notice period of resignation has come to an end on 19.12.2017 and therefore, his resignation may now be accepted. But the appellant thereafter by change of mind submitted another application on 31.12.2017 requesting to withdraw his resignation which could not have been accepted by the respondent-Bank because his earlier letter of resignation dated 19.09.2017 had already been acted upon and was lawfully accepted by the respondent-Bank. Howsoever this Court may sympathise with the appellant considering that he is an ex-army man, but the Court has to scrutinise the decision of the respondents in not accepting his request for withdrawal made on 31.12.2017 on the anvil of the law applicable on the subject. What cannot be lost sight of is that even if the appellant was having unstable state of mind when he submitted the letter of resignation on 19.9.2017 but all through the notice period of three months i.e. on 19.12.2017,

when he had been working far away from earlier Branch and there was no repetition of any untoward incident with him in the intervening period, in the normal course, he is supposed to have regained his cool and stability of mind and if at all he wanted, he could have decided to withdraw the resignation within the notice period of three months, which he did not do.

18. In **Gopal Chandra Misra** (supra), the Constitution Bench of the Supreme Court held that general principle regarding resignation is that in the absence of a legal, contractual or 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. This general rule is equally applicable to Government servants and constitutional functionaries. In the case of a Government servant/or functionary who cannot, under the conditions of his service/or office, by his own unilateral act of tendering resignation, give up his service/or office, normally, the tender of resignation becomes effective and his service/or office-tenure terminated when it is accepted by the competent authority.

19. In **J.K.Cotton Spinning and Weaving Mills Company Ltd.** (supra), the Supreme Court held that one of the ways of terminating the contract of employment is resignation. If an employee makes his intention to resign his job known to the employer and the latter accepts the resignation, the contract of employment comes to an end and with it stands severed the employer-employee relationship. Resignation amounts to voluntary retirement within the meaning of exception clause

(i) of Section 2(s) of the U.P. Industrial Disputes Act, 1947. When an employee voluntarily tenders his resignation, it is an act by which he voluntarily gives up his job and therefore, such a situation would be covered by the expression 'voluntary retirement' within the meaning of clause (i) of Section 2(s) of the State Act. Therefore, the question of grant of compensation under Section 6-N of the said Act does not arise.

20. In view of above discussion, we do not find any infirmity in the impugned judgment. There being no merit, the appeal is dismissed with however no order as to costs.

(Mohammad Rafiq)
Chief Justice

(Vijay Kumar Shukla)
Judge

C.