

Editorial

MAY DAY 2019

The calendar rolls in and we are in the doorstep of 1st May, 2019 when working people will observe its own international festival energetically for protecting the rights that it has earned over a century and for universal peace. We all know that the international celebration of 'MAY DAY' began with demonstration each year from 1904 responding to the call of International Socialist Conference at Amsterdam commemorating the sacrifice of the strikers who were killed by bullets from ruthless Police administration of Chicago, USA in year 1886. Common Bond, on the occasion of 'MAY DAY' pay its deep respect to all the martyrs of Trade Union and national liberation movement in different parts of the world who laid down their lives for upholding the rights of the working people.

Nation is participating in the greatest festival of democracy. Only on 23rd May the outcome of the election will be known. We know for certain whatever be the outcome of the election, the struggle of the working people in general and that of the bankers in particular will continue for a decent work-life balance. Our fight for upholding and expanding the dominant Public Sector character of Indian banking will continue. The movement will also have to take care for the unified response to the challenges of



privatization in the guise of injecting so called efficiency in the national economy. Such unified response has to be built by ensuring the widest possible unity within the working class movement irrespective of caste, creed and religion.

While we in the organised sector will be celebrating 'MAY DAY', Common Bond wish to share a story of women workforce engaged in sugarcane cultivation in Maharashtra. The story is

as under:

Married at the age of 15 or 16 girls in the drought affected Marathwada region become mothers in the next couple of years. And then, by the time they are 22 or 23 years old they have a hysterectomy - a surgery to remove the uterus. Thereafter these cane cutter women become living working machines for their entire life. This will ensure that their employer need not have to bother about their absence either due to pregnancy or other biological condition to which young women may be subjected.

This story for which National Commission of Women had issued a notice to the Chief Secretary of Maharashtra Government clearly reveals that possibly very little have changed from the day when the working people marched on the street demanding regulated 8 hours working for a life with some dignity to live in. It also imposes the responsibility on the organised working class

FACTS ARE MANY BUT THE TRUTH IS ONE

movement to stand by the exploited workforce in the unorganized sector. Such forward looking attitude will strengthen the bond within the movement and ensure a Society for which the striking workers shed their blood in 1886.

Within the banking sector more attacks will come in the name of consolidation, merger, hostile take-over of private sector banks, tweaking of accounting standards for weakening the public sector banking, delay in settling the just demands of bank employees and officers. We have to

appreciate that our struggle for reversing such attacks and for clinching our demands, our organisational response need to be more focused and broad based.

Let us take a resolute vow on the occasion of 'MAY DAY' that we will fight against the moves of privatization, reverse nationalization in the banking sector in the name of consolidation, for a decent service condition ensuring a proper work-life balance while multiplying our militancy for a India free from all regressive ideas.■

TERROR STRIKES IN SRI LANKA

AIBOC joins the international community in condemning the heinous serial blasts on Easter Sunday prayers in Sri Lanka killing more than 350 people and leaving hundreds injured.

Difficult as it is, we must continue to be skeptical of the narratives of terror and counter terror as the only explanation and responses to what is happening. The condition for extremism is within our own homes and communities. It must be counted not by hate and suspicion but by securing our relationship and challenging extremism in all its forms. Fear and insecurity are producing panic stricken responses.



Globally there is plenty of evidence to show that widening socio-economic inequalities, increasing economic precariousness and the concentration of power within a close circle of global economic and political elite can sow the seed of discontent, intolerance and terrorism.

It is therefore, important to understand that no attack of terrorist is local in nature and we all must come together to ensure that neither the attack nor the dominant narrative being offered reflect the true character resilience and ethos of humanity.■

Organisational Issue

OUR DEMAND FOR PAYMENT OF ALLOWANCES AND COMPENSATORY LEAVE FOR ELECTION WORK

Text of letter no. AIBOC/2019/46 dated 06.04.2019

The Chief Election Commissioner
Election Commission of India, Nirvachan Sadan,
Ashoka Road, New Delhi-110001

Respected Sir,

Drafting services of bank officials for election work

Greetings from All India Bank Officers' Confederation (AIBOC), the apex body of supervisory cadre in the

country having a membership of over 3.20 lakh officers.

2. It has been a practice that the State Electoral Authorities have been drafting the services of officials of the Banks for conducting elections to the House of Parliament/ State Legislatures/ Corporations/ Municipalities/ Panchayats. We understand that State Electoral Authorities have sought deputation of officials from the Bank for elections to the Houses of People/ State Legislature scheduled between 11th of April to 19th of May, 2019. Most of the times officials

THERE IS NOTHING PERMANENT EXCEPT CHANGE

are deputed outside their headquarters for trainings, polling and election related work. As such officials will be constrained to stay in deputed places, many a times more than a day (overnight) also. This will entail financial expenditure to the deputed officials.

3. There has been no clear provision for payment of travelling/ diem allowances to the deputed officials and the expenses incurred by them is usually more than the allowances, whatever paid by the Election Commission. Further, though they are often required to work on Sunday/Holiday, they are not permitted to avail any compensatory leave. Thus, the officials who work dedicatedly for a national cause are not adequately compensated monetarily or otherwise.

4. We understand that Election Commission, vide memo dated 218/6/2009/EPD dated 26.10.2009, has directed Insurance companies to bear the expenses (TA/DA) as per the entitlement of the officers of insurance sector whenever they are deputed to election related work. We also understand that Govt. of NCT, Delhi, vide their memo No.2(8)(6)/Misc/E-II/

2014/188-43 dated 25.03.2015, are granting compensatory leave to the officials who are deployed to election duties on Saturday/ Sunday or Holiday.

5. In fitness of things and in appreciation of the dedicated work of PSBs officials in smooth conduct of elections, we implore upon your good office to direct the respective management of PSBs for payment of allowances as per entitlement of their service conditions and also granting compensatory leave in all deserving cases. We request you to look into the matter urgently as officials of PSBs have already been deputed to training and election related duties for the ensuing Parliamentary/State Legislature elections.

With best regards,

Yours sincerely,
Sd/-
(Soumya Datta)
General Secretary

Encls. : As stated above.

Economy

RBI, A TOOTHLESS REGULATOR

The Supreme Court struck down a controversial 2018 directive from the Reserve Bank of India, which gave lenders a 180-day deadline to resolve non-performing loans before having to refer to the defaulting borrowers to a bankruptcy tribunal.

The verdict is a serious blow to the bank officials, who have been trying to tackle worst bad debt problems with some early success. Yet it is a huge relief to several India industries, especially the country's power-generating companies, which are saddled with stranded capacity and too many borrowings.

They had sued the central bank, arguing that a 2017 law introduced to empower the central bank on corporate defaults (and thereby beef up India's new insolvency code) was unconstitutional.

Luckily, the companies failed in their broader attempt to overturn the new law. The judges ruled that it was good, and agreed that it did give the RBI greater

scope to intervene on insolvencies. Nonetheless, they still decided that the bank had overreached with its February 2018 circular on the 180 day deadline. The Supreme Court found that under the new law, India's government has to instruct the RBI on specific defaults it wants settled by the bankruptcy tribunal. As such, the regulator was wrong to take sweeping, general action of its own.

RBI'S AUTHORITY

The verdict reduces the RBI's dwindling authority by another couple of notches. Urjit Patel, the former bank governor, saw the 2018 circular as a potent weapon against crony capitalism. His predecessor, Raghuram Rajan, had started forcing banks to come clean about the true extent of their \$200-billion-plus stressed asset problem. Still, recognition is only the first step to resolution.

Take Reliance Communications, the mobile phone operator controlled by Anil Ambani, the younger

LEARNING NEVER EXHAUSTS THE MIND

brother of India's richest man. An out-of-court restructuring of the company never got anywhere. Unpaid bank kept dithering on legal action, even as the firm closed its main business. But an overseas creditor, Sweden's Ericsson, swooped in, went to the bankruptcy tribunal, and got itself a handsome settlement. State Bank of India and other lenders are still waiting to see even a partial return of capital.

Such examples abound. That's why Patel gave foot dragging lenders a hard deadline on when they would have to take errant debtors to the insolvency tribunal. And that made him enemies. Big power companies protested that broken government promises had caused the sector's financial woes, which meant they deserved forbearance. (Of course, when banks snatch the assets of small entrepreneurs, the fault is always with the borrower.)

For politically-connected industrial families, the very idea that lenders would take away their assets and sell them perhaps even to foreigners is unthinkable. In the face of such powerful resistance. Rajan gave up as RBI governor and went back to the University of Chicago after a single three year term, and Patel resigned abruptly late last year. In the world of the Indian promoter, as controlling shareholders are known in the country, cronyism is not an aberration. Given India's opaque sources of political funding, it's an organizing principle of economic activity.

A HOPELESS WAR FOUGHT

In the end, the RBI was fighting a just but hopeless war against the cronies. Supreme Court order

marshals impeccable legal logic to show that Patel's 2018 circular assumed a freedom of action that legislators never meant to give him. But who will blow the whistle on this endless game of extending bad loans if the RBI, the banking regulator, cannot? The government?

Among the firms that ended up in insolvency thanks to the central bank's prodding is Videocon Industries, whose financial creditors are owed \$8.4 billion. One of its associate companies, Videocon Telecommunication, is also bankrupt with a debt load of \$3.5 billion. And that's not even counting operational creditors. Venugopal Dhoot, the controlling shareholder, is under investigation in a favour-for-loan scandal involving ICICI Bank's former CEO, and her spouse. The rot runs deep, and somebody needs the legal authority to clean it up. Maybe the RBI will have to sit out the campaign.

But how many knocks can it take before people lose faith in it as an institution altogether?
(Adopted and revised)

RESERVE BANK OF INDIA WITHDRAWS ITSELF FROM NABARD AND NATIONAL HOUSING BANK

In line with the recommendation made by Narsimham Committee – II, Reserve Bank of India transferred its controlling stake in NABARD and NHB to Government of India. Government will now have 100% stake in these two banks. It will be of some interest to see that whether it is a precursor towards denationalization of these two apex level developmental financial institutions. ■

Banking News

GIVE PSU BANKS AUTONOMY TO DECIDE ORGANISATIONAL STRUCTURE

The Banks Board Bureau (BBB), the apex body for selection of whole-time directors of state-owned lenders, has made a case for giving a complete autonomy to banks to decide 'organisational structure for better efficiency.

The BBB headed by former DoPT Secretary B P Sharma also suggested revamping credit

governance architecture in banks to reinforce efforts to minimise credit costs and enhance efficiency of credit allocation.

In its activity report for October 2018 to March 2019, the board also recommended incentivisation scheme linked to performance.

THE JOURNEY OF A THOUSAND MILES BEGINS WITH ONE STEP

"Incentivise ` maximization of risk adjusted income and disincentivise operational inefficiencies by aligning compensation with right performance metrics through the introduction of performance based compensation through Employee Stock Option Scheme (ESOS), which is different from Employee Share Purchase Scheme (ESPS), and Performance Linked Incentives (PLIs).

Highlighting the work undertaken by the board during the period, it said the recommendations for filling up the posts of whole-time directors in public sector banks (PSBs) were made on time and as a result, the vacancies which came up

during this six months' period were filled up without delay.

However, it said, the only vacancy which could not be filled up on time was that of MD and CEO in Canara Bank for which candidates outside the PSB universe are also eligible.

Constitution of BBB

Prime Minister Narendra Modi in 2016 approved the constitution of the BBB as a body of eminent professionals and officials to make recommendations for appointment of whole-time directors as well as non-executive chairmen of PSBs.■

Circulars

CIRCULARS

★ **23 dated 26th March, 2019:** Veteran Bank Trade Union Leader Comrade Santi Bardhan has passed away

★ **24 dated 30th March, 2019 :** Merger/ Amalgamation of Vijaya Bank and Dena Bank with Bank of Baroda. Our stay applications dismissed by Hon'ble Supreme Court. Observe Protest Day on April 1st, 2019

★ **25 dated 6th April, 2019:** Text of letter no. AIBOC/2019/46 dated 06.04.2019 on drafting services of bank officials for election work – payment of allowances and compensatory leave

★ **26 dated 10th April, 2019:** Text of letter no. AIBOC/2019/48 dated 10.04.2019 proposed merger of LVB & IBHF – letter to RBI ■

NEWS FROM FRATERNAL ORGANISATIONS

3RD TRIENNIAL GENERAL BODY CONFERENCE OF AIBPARC AT CHENNAI



Nearly 2000 retirees many of whom were the front line AIBOC soldiers in the yester years assembled in a festive mood in the INFOSYS Hall of RKM HS School in Chennai on 30th March, 2019. The inaugural session was addressed by Comrade K. V. Acharya President, AIBPARC, Hon'ble Justice D. Hariparanthaman and a host of leaders from fraternal retiree organisations. Speakers paid rich tribute to the memory and contribution of Comrade S. R. Sengupta the founding General Secretary of AIBPARC. Comrade Soumya Datta General Secretary, AIBOC described 1st April, 2019 as a 'Black Day' for

the banking industry as two nationalized banks disappeared from the map on that date. He assured that AIBOC would take care of the interest of the entire officers' community and would try to resolve the retiree's issues. The business session on 31st March reelected Comrade K. V. Acharya as the President and Comrade Suprita Sarkar as General Secretary with a strong executive body.

A MAN CAN BE DESTROYED BUT NOT DEFEATED

FIRST NATIONAL WOMEN'S CONCLAVE OF AIABOA, AT HYDERABAD

The first national women's conclave was held at Hotel Sitara, Hyderabad on 13.04.2019, coinciding with the formation day of the All India Allahabad Bank Officers' Association at Hyderabad on 13.04.2019. The conclave was presided by Comrade Biswaranjan Ray, the President of AIABOA. The conclave was addressed by Shri Sanjeev Kumar Suri, GM (HR), Head Office, Prof. Tirunagari Jyotsna, Shri Rakesh Kumar Sharma, FGM, Comrade Anand

roles played by the lady officers' in discharging their official duties while taking care of their other social commitments. The issues like Crèche facility, Child care leave, work life balance, flexi timing, work from home, etc., was discussed in the conclave which was attended by over 200 delegates from different parts of the country representing nearly 2600 lady members of AIABOA.



Rao, General Secretary, AIABOA AND Comrade Soumya Datta, General Secretary, AIBOC amongst others.

The conclave was a stupendous success with a decision that lady officers' will take more active role in Trade Union movement as well as taking active part in the social activities of the AIBOC/AIABOA.

All the speakers showered their appreciation on the

CATHOLIC SYRIAN BANK OFFICERS' ASSOCIATION HITS BACK

In a major display of its striking power, the members of CSBOA struck work on 2nd April, 2019 and converged in Thrissur from all corners of Kerala and even from distant places like Mumbai in the place of public meeting organised to expose the various irregularities resorted by the bank management. Speakers after speakers including Comrade Soumya Datta, General Secretary, AIBOC spoke at length about the frightening situation prevailing in Catholic Syrian Bank and demanded a forensic audit into the corporate loans granted during the tenure of the present MD and

CEO. On the run up to the strike CSBOA organised a one day hunger satyagraha on 31st March, 2019 at Thrissur which was inaugurated by M. M. Varghese a veteran trade union leader.

AIBOC extends its solidarity and salute to the comrades of CSBOA in their struggle correctly described as a struggle for justice, fundamental rights and for freedom from tyrannical present management of Catholic Syrian Bank. Victory will be theirs.

WHOEVER IS HAPPY WILL MAKE OTHERS HAPPY TOO

A NEW STAR IS BORN

The erstwhile All India Dena Bank Officers' Federation and All India Vijaya Bank Officers' Association assembled in a joint convention on 21st April, 2019 in Kolkata Medical College Auditorium. The tastefully decorated convention hall and the podium reverberates with the slogans raised by the young comrades confirming that the battle to protect the public sector banking space under the unique leadership of AIBOC will continue to hunt the power that be.



September 2018 by organizing militant protest movement including striking work on 21st December, 2018. The battle was taken to the highest level of judiciary where AIBOC might have to retract on technical ground.

The merger from 1st April, 2019 ignoring the protest and sentiment of the stake holders led to the formation of Federation of Bank of Baroda Officers' Association (FBBOA) who will now lead the unified officers' community within Bank of Baroda.

The presidium of the convention was formed with Comrade Sanjeev K Varshney, Comrade S. S. Prasad, Comrade Kishor Kadam, Comrade K. Prakash Rao. Comrade Soumya Datta, General Secretary, AIBOC, Comrade Sanjay Das and Comrade Shubhajyoti Chattopadhyay, Secretary and President of the West Bengal State Unit of AIBOC joined the presidium.

A strong 26 member Executive Committee was formed unanimously with Comrade Sanjeev K Varshney as Chairman, Comrade S. S. Prasad as President, Comrade K Praksash Rao as General Secretary and Comrade Kishor Kadam as Secretary General. The entire programme was brilliantly compered by Comrade Taposh Kumar Ghosh the Sr. Vice President of FBBOA.

In their speeches all the leader appreciated the role played by AIBOC ever since the announcement of the merger decision by the government in

Common Bond welcomes FBBOA in the AIBOC and is confident it will emerge as a strong militant affiliate of the AIBOC in the days and years to come.

Judicial Verdict

**2019 LLR 415
KERALA HIGH COURT
Hon'ble Mr. V.G. Arun, J.
W.P. (C) No. 7798/2016, Dt/-14-2-2019**

**Sooryakanth
Vs.
Kerala State Financial Enterprises Ltd.**

RESIGNATION – Withdrawal before acceptance – Valid – Petitioner submitted resignation on 9.6.2015 – Employer replied vide letter dated 20.6.2015 directing the petitioner to get released from outstanding liabilities in order to accept his resignation – Petitioner withdrew resignation vide letter date 4.7.2015 stating that he was unable to close his liabilities – Petitioner received letter dated 4.9.2015 to receive

INDEPENDENCE IS HAPPINESS

his Group Savings Linked Insurance – Petitioner filed writ petition seeking quashing of letter dated 04.09.2015 acceptance of his resignation directing the employer to allow him join duty – Held, it is always open to the employee to withdraw his resignation for valid reasons prior to acceptance of resignation by the employer since till the date of acceptance of resignation there would be no severance of jural relationship between employer and employee – Acceptance of resignation after receipt of withdrawal letter is not a valid acceptance.

For Petitioner: Mr. Sreedevi Kylasanth, Advocate. For Respondents: Mr. P. Gopinath (Sr. Advocate), Mr. P. Benny Thomas, Mr. Joson Manavalan, Mr. K. John Mathai, Mr. Kuryan Thomas, Mr. M. Gopikrishnan Nambiar & Mr. Unni Nair, Advocates.

IMPORTANT POINTS

It is always open to the employee to withdraw his resignation for valid reasons prior to acceptance of his/her resignation by the employer since till the date of valid acceptance of resignation there would be no severance of jural relationship between employee and employee.

Acceptance of resignation after receipt of withdrawal of resignation is not a valid acceptance.

Resignation submitted by an employee would come into effect only on its acceptance and prior to that acceptance, it is always open to employee to withdraw the same.

JUDGMENT

V.G. ARUN, J.

1. The writ petition has been filed, being aggrieved by the refusal on the part of the 1st respondent to permit the petitioner to join duty, on the premise

that the petitioner had resigned from its service. The petitioner, while working as Senior Assistant in the 1st respondent, had submitted Ext. P11 letter on 9.6.2015, expressing his intention to resign from the service of the first respondent. On the basis of the petitioner's letter, the 2nd respondent issued Ext.P3 communication dated 20.6.2015, requesting the petitioner to get released from his outstanding liabilities as subscriber, hirer, surety, guarantor, loanee etc, urgently in order to accept the petitioner's resignation from the company's service. In Ext.P3, it was also stated that since the petitioner had failed to give advance notice of resignation, he had to remit one month's basic pay (Rs. 13090/-), as Notice Pay. After receipt of Ext.P3 communication, the petitioner submitted Ext. P4 letter dated 4.7.2015, stating that he was unable to close the liabilities as required in Ext.P3 letter and further requesting the 2nd respondent to permit the petitioner to withdraw his resignation letter and allow him to continue at the Sreekaryam Branch. Later, the petitioner was issued with Ext.P5 communication dated 4.9.2015, requiring him to receive his Group Savings Linked Insurance (GSLI) claim amount. Thereupon, the writ petition was filed seeking to quash Ext.P5 and the acceptance of the petitioner's resignation and for the issue of a writ of mandamus directing the respondents to allow the petitioner to continue to work as Senior Assistant in the Kerala State Financial Enterprises Ltd.

2. The specific contention urged on behalf of the petitioner is that, the petitioner having withdrawn his resignation prior to its acceptance, the resignation had not come into effect and therefore, the respondents were bound to permit the petitioner to continue in service. A statement has been filed on behalf of respondents 1 to 3 stating that, as per Ext.P4, the petitioner had informed the respondents about his inability to clear the dues

and that considering the petitioner's request, the respondents had decided to accept the petitioner's resignation and had, vide Ext.P5, requested the petitioner to collect the GSLI claim amount. It is stated that the resignation of the petitioner from the service of the establishment had come into effect and that if at all, the petitioner had delayed the formalities after resignation and hence the same cannot make the resignation invalid. The further contention is to the effect that from the conduct of the petitioner, after submission of the letter of resignation, in not having reported for duty thereafter, it is clear that even the petitioner was convinced about the fact that his resignation had taken effect.

3. From the rival contentions, the issue that arises for consideration in this writ petition is as to when, if at all, the petitioner's resignation had taken effect. For resolving this issue, a close scrutiny of the relevant documents is necessary. Ext. P11 is the letter of resignation, wherein, the petitioner had expressed his wish to resign from KSFE employment and had also requested the 3rd respondent, to whom the letter was addressed, to forward his request to the 2nd respondent. The 2nd respondent to whom Ext. P3 was forwarded did not accept the resignation and on the other hand, required the petitioner to get released from the liabilities mentioned in Ext. P3 communication, as a condition for accepting his resignation. The 2nd respondent further requested the petitioner to remit one month's basic pay as notice pay, since he had failed to give advance notice of resignation. Though Ext.P4 is dated 4.7.2015, it was sent only on 23.7.2015, as is evident from the endorsement in the postal receipt. Even if it is taken that Ext.P4 was sent only on 23.7.2015, the respondents do not have a case that the petitioner's resignation was accepted prior to that date.

4. The learned counsel for the petitioner relied on the decisions in *Rajkumar v. Union of India*, 1968 KLT OnLine 1110 (SC): AIR 1969 SC 180; *Union of India and others v. Gopal Chandra Misra and others*, 1978 KLT OnLine 1005 (SC): AIR 1978 SC 694 and *Balram Gupta v. Union of India and another*, 1987 (2) KLT OnLine 1106 (SC): 1987 Suppl. SCC 228 in support of his contention that the resignation submitted by an employee would come into effect only upon its acceptance by the employer and that prior to such acceptance, it is always open for the employee to withdraw his resignation. In *Rajkumar's* case, the appellant, an officer belonging to the Indian Administrative Service, had submitted his resignation to the Chief Secretary of the State and had requested it to be forwarded to the Government of India for early acceptance. Thereafter, the Government of India accepted the resignation of the appellant. Later, the appellant changed his mind and requested the Chief Secretary to recommend "acceptance of the withdrawal" of his resignation from the Indian Administrative Service. Meanwhile, a letter was issued by the State Government, accepting the resignation of the appellant and requiring him to hand over charge to another officer. Thereupon, the appellant moved the High Court seeking the issue of a writ of certiorari and for quashing the orders accepting his resignation issued by the Central and State Governments. The writ petition having been dismissed by the High Court, appeal was filed before the Supreme Court. Taking note of the specific request made by the appellant for accepting his resignation, followed by such acceptance by the appropriate Governments, the Apex Court held that no rule has been framed under Article 309 of the Constitution which enacts that for an order accepting the resignation to be effective, it must be communication to the person submitting his resignation. It was further held that where a public

servant has invited determination of his employment by his letter of resignation, his services normally stand terminated from the date on which the letter of resignation is accepted by the appropriate authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the public servant to withdraw his resignation after it is accepted by the appropriate authority in consonance with the rules governing the acceptance. It was also held that till the resignation is accepted by the appropriate authority in consonance with rules governing its acceptance, the public servant concerned has *locus paenitentiae* and not thereafter. Gopal Chandra Misra's case pertained to the issue arising out of the resignation submitted by a High Court Judge. The majority of the Constitution Bench, which decided the case, espoused the general principles regarding resignation and held as follows:

“The 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. In the case of a Judge of a High Court, who

is a constitutional functionary and under Proviso (a) to Art. 217 (1) has a unilateral right or privilege to resign his office, his resignation becomes effective and tenure terminated on the date from which he, of his own volition, chooses to quit office. If in terms of the writing under his hand addressed to the President, he resigns in *praesenti*, the resignation terminates his office-tenure forthwith, and cannot therefore, be withdrawn or revoked thereafter. But, if he by such writing, chooses to resign from a future date, the act of resigning office is not complete because it does not terminate his tenure before such date and the Judge can at any time before the arrival of that prospective date on which it was intended to be effective withdraw it, because the Constitution does not bar such withdrawal. Civil Misc. Writ No. 1172, of 1977 D/- 28.10.1977 (All) (FB), Reversed. Case law discussed.

In Balram Gupta's case, the appellant had withdrawn his resignation before the expiry of the notice period. Considering the circumstances of the case, the Apex Court held that the resignation of the appellant, who was a Government servant, was to take effect on a subsequent date prospectively and that the withdrawal was long before that date. It was therefore held that there was no valid reason for withholding the permission sought by the appellant for withdrawal of his resignation. The Apex Court therefore observed as follows:

“In the modern and uncertain age it is very difficult to arrange one's future with any amount of certainty, a certain amount of

flexibility is required, and if such flexibility does not jeopardize Government or administration, administration should be graceful enough to respond and acknowledge the flexibility of human mind and attitude and allow the appellant to withdraw his letter of retirement in the facts and circumstance of this case. Much complication which has arisen could have been thus avoided by such graceful attitude. The court cannot but condemn circuitous way to ease out uncomfortable employees. As a model employer the government must conduct itself with high probity and candour with its employees."

5. A Division Bench of this Court also had occasion to consider the question as to when a resignation would become effective. After detailed survey of the precedents, the Division Bench in *Shabeer Ahammed v. Sivadasan V.P and others*, 2018 (3) KLT 48: ILR 2018 (3) Ker 104 went on to hold as follows:

"A complete and effective act of resigning from office is one which severs the link of the resignor with his office and terminates its tenure. Where effectiveness of resignation depends upon acceptance of the same by the proper authority, it can always be withdrawn until accepted because the resignation is not complete in the eye of law unless the employee is relieved of 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. Resignation which depends for its effectiveness upon the acceptance by the proper authority is like an offer which may be withdrawn before it is accepted. A

resignation submitted by an employee is no resignation in the eye of law until is accepted by the employer as per the rules. So long as it is not an effective resignation, there can be no bar to withdraw it. "

From the authoritative pronouncements cited above, it is clear that, in the absence of proof regarding acceptance of resignation by the employer, there is no severance of the jural relationship between the employee and the employer and therefore, it is always open for the employee to withdraw his resignation for valid reasons. As far as the instant case is concerned, the petitioner had submitted the reasons for his decision to seek withdrawal of his resignation. As would be evident from Ext.P3, the respondents had imposed conditions for accepting the petitioner's resignation. Admittedly, the petitioner did not comply with those conditions. Even according to the respondents, the decision to accept the petitioner's resignation was taken after receipt of Ext.P4, under which the petitioner had sought for withdrawal of his resignation citing his inability to clear off the liabilities and also for the reason that his working environment had become more conducive. No reason is forthcoming from the respondents as to whether, the request for withdrawal of resignation was considered and if so, the reason as to why it was turned down. In such circumstance, the fact that the respondents has later issued Ext.P5, which contained an omnibus statement requiring the petitioner to receive his GSLI claim amount, cannot be perceived as indicative of acceptance of the petitioner's resignation by the respondents, prior to receipt of his request for withdrawal.

6. The other contention sought to be urged on behalf of the respondents is based on the conduct

of the petitioner after submission of the resignation letter. According to the respondents, the fact the petitioner did not report for duty after submitting Ext.P11, is ample proof that the petitioner himself had proceeded on the premise that his resignation was accepted. This contention of the respondents is refuted by the petitioner, by placing reliance on Ext.P4, wherein he had requested the respondents to permit him to continue at the Branch where he had been working. In his reply affidavit, the petitioner has stated that in spite of his request, the respondents did not allow him to join duty. In such circumstances, the irrefutable conclusion is that the petitioner had sought to withdraw his resignation prior to its acceptance by the respondents. Since, as on the date on which the petitioner submitted his request for withdrawal of resignation, the employer-

employee relationship was subsisting, the respondents were bound to accept the petitioner's request.

In such circumstance, the relief sought in the writ petition is liable to allowed, irrespective of any decision to accept the petitioner's resignation taken by the respondents after receipt of Ext.P4. Consequently, Ext.P5 is quashed and the respondents are directed to allow the petitioner to join duty and continue to work in the post of Senior Assistant in the Kerala State Financial Enterprises Ltd. this shall be done within a period of ten days from the date of receipt of a copy of this lodgment.

The writ petition is allowed as above.

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If Undelivered Please Return To

The All India Bank Officers' Confederation

SBI Buildings, St.Mark's Road, Bangalore - 560 001.