



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.9308 OF 2024

DELHI TECHNOLOGICAL UNIVERSITY ... APPELLANT

VERSUS

B.S. RAWAT ... RESPONDENT

WITH

CIVIL APPEAL NO.9309 OF 2024

AND

SPECIAL LEAVE PETITION (C) NOS.625-626 OF 2021

J U D G M E N T

ALOK ARADHE, J.

1. These two appeals, though arising out of the separate proceedings before the two different High Courts, involve substantially overlapping questions of law, namely the right of an employee to withdraw a tendered resignation, and the effect of ratification, by the competent authority, of an otherwise unauthorised acceptance of resignation.

FACTUAL MATRIX

CIVIL APPEAL ARISING FROM THE JUDGMENT OF HIGH COURT OF DELHI

2. Delhi Technological University (DTU), formerly known as Delhi College of Engineering was given the status of a University *vide* Delhi Technological University Act, 2009 (the 2009 Act). The

Government of Delhi after obtaining prior approval of the Chancellor (Lieutenant Governor of Delhi) in exercise of powers under Section 30 read with Section 31(1) of the 2009 Act, notified Statutes of Delhi Technological University (First Statutes, 2009. On the recommendation of the Selection Committee, the Vice-Chancellor of DTU offered the post of Assistant Registrar (Legal) to the respondent. On 23.08.2010, the respondent joined DTU as the Assistant Registrar (Legal). By the Delhi Technological University (Amendment) Act, 2012, Section 22 of the 2009 Act was amended creating the post of a Chairperson to be nominated by the Chancellor to head the Board of Management (BOM), and Section 53 was inserted empowering the Chancellor to issue such directions as may be necessary or expedient in the interest of administration. Section 23(2)(ix) vests in the BOM the power to appoint persons to teaching, administrative and ministerial posts.

- 3.** The BOM in its meeting held on 27.05.2015, for the smooth functioning of DTU, delegated all its powers to the Vice Chancellor until the appointment of a Chairman for the BOM. The then Vice-Chancellor of DTU tendered his resignation and was relieved with effect from 23.09.2015. The Lieutenant

Governor of NCT of Delhi who is the Chancellor of the University in exercise of powers under Section 53 of the 2009 Act, assigned additional charge of the post of Vice-Chancellor of DTU to Professor Yogesh Singh, Director, Netaji Subhash Institute of Technology on 18.09.2015. He was appointed as a full-time, salaried Vice-Chancellor only with effect from 14.07.2016.

- 4.** On 19.05.2016, the respondent tendered his resignation to take effect from 01.09.2016, the intervening period being treated as advance notice. He thereafter sought waiver of the notice period and requested acceptance of his resignation with effect from 31.05.2016. By a memo dated 25.05.2016, the then Vice-Chancellor, holding additional charge, accepted the resignation with effect from 31.05.2016, and the respondent was relieved. Accordingly, his no-dues certificate, last pay certificate and experience certificate were issued which were accepted by him.
- 5.** On 22.09.2016, four months after being relieved, the respondent addressed a letter to DTU seeking withdrawal of his resignation, contending that it had neither been accepted nor been ratified by the BOM, the competent authority under Section 23(2)(ix) of the Act. The 20th meeting of the BOM held

on 26.09.2016, ratified the acceptance of the resignation, and by an order dated 03.11.2016, the request for withdrawal of resignation was rejected.

6. Being aggrieved, the respondent filed a writ petition, namely W.P.(C) No. 2611 of 2019, which was allowed by the learned Single Judge on 15.12.2021, and the orders dated 25.05.2016, 31.05.2016 and 03.11.2016 were quashed and reinstatement with full back wages along with interest @ 9% *per annum* was directed. In appeal, the Division Bench, by the impugned judgment dated 08.08.2022, affirmed reinstatement but denied back wages on account of the respondent's conduct in having taken up gainful employment in the *interregnum*.
7. DTU has preferred an appeal, namely, C.A No. 9308 of 2024 against the direction of reinstatement whereas the respondent challenges the denial of back wages in C.A. No. 9309 of 2024.

CIVIL APPEAL ARISING FROM THE JUDGMENT OF THE HIGH COURT OF KERALA

8. Consequent upon his resignation from DTU, the respondent joined National Institute of Technology, Calicut ('NITC') as Deputy Registrar on 08.02.2017. On 08.11.2018, he tendered a conditional letter of resignation seeking leave to withdraw the

same before the date of relieving. The resignation was returned as impermissible under Statute 30 of the First Statutes of the National Institute of Technology, 2009 (NIT First Statutes, 2009). The respondent, thereafter, submitted an unconditional letter of resignation, while reiterating his request for leave to withdraw the resignation before relieving.

9. The competent authority accepted the resignation on 22.11.2018. The acceptance of resignation was communicated on 04.12.2018, to the respondent, and he was permitted to be relieved on 11.01.2019 i.e. upon completion of the notice period. On 28.11.2018, upon selection on deputation with the East Delhi Municipal Corporation, the respondent sought to withdraw his resignation. The request, reiterated on 07.12.2018, was rejected by a reasoned order dated 07.01.2019 and the respondent was relieved on 11.01.2019.

10. Being dissatisfied, the respondent filed a writ petition, which was partly allowed by the learned Single Judge, the orders of acceptance of resignation and rejection of withdrawal were held illegal and reinstatement with notional continuity of service, without back wages, was directed. Cross-appeals were preferred, W.A. No. 809 of 2020 by NITC and W.A. No. 816 of

2020 by the respondent seeking back wages. By the impugned judgment dated 01.12.2020, the Division Bench allowed NITC's appeal in entirety, and set aside the direction of reinstatement, and dismissed the respondent's appeal for back wages. Being aggrieved, respondent has filed the Special Leave Petition (C) Nos. 625-626 of 2021.

SUBMISSIONS

- 11.** Mrs. Avnish Ahlawat, learned counsel for DTU, has submitted that the Chancellor of DTU was the competent authority to appoint the Vice-Chancellor who had been assigned the additional charge. It is further submitted that the respondent, having tendered his resignation and having requested that the notice period be waived, cannot now turn around and contend that his resignation was not accepted by the competent authority. It is submitted that the resignation was accepted by the acting Vice-Chancellor and the same was duly ratified by the BOM. Therefore, it is contended that impugned judgment in so far as it directs reinstatement of the respondent is liable to be set aside. It is urged that the Division Bench has rightly held that the respondent is not entitled for back wages. In support of

the aforesaid submissions, reliance has been placed on the decisions of this Court¹.

12. On the contrary, respondent in C.A. No. 9308 of 2024 who has appeared in-person submitted that his resignation was not approved by the competent authority and the question of its ratification by the BOM does not arise. It is contended that there is no document on record to show that resignation has ever been accepted. It is, therefore, urged that the learned Single Judge as well as Division Bench have rightly directed reinstatement of the respondent. It is submitted that the respondent is entitled to back wages. In support of the aforesaid submission, reliance has been placed on the decision of this Court².

13. The respondent in S.L.P. (C) Nos. 625-626 of 2021 has submitted that NITC erred in relieving him before the notice period. It is further submitted that the resignation of the respondent was not accepted by the competent authority

¹ Director General of Police & Anr. v. M. Jeyanthi, (2021) 14 SCC 677; New Victoria Mills & Ors. v. Shrikant Arya, (2021) 13 SCC 771; Bharat Petroleum Corporation Ltd. v. Anil Padegaonkar, (2020) 5 SCC 474; Air India Express Ltd. & Ors. v. Captain Gurdarshan Kaur Sandhu, (2019) 17 SCC 129; National Institute of Technology & Anr. v. Pannalal Choudhury & Anr., (2015) 11 SCC 669; Union of India & Ors. v. Gopal Chandra Misra & Ors., (1978) 2 SCC 301; Municipal Commissioner, Jamnagar Municipal Corporation & Anr. v. R.M. Doshi, (2024) 20 SCC 742 and Dr. Suman V. Jain v. Marwadi Sammelan through its Secretary & Ors., 2024 SCC OnLine SC 161.

² Bhartiben Chandrakantbhai Thakor v. State of Gujarat & Ors., 2023 SCC Online SC 208.

namely, the Board of Governance and the action which is without jurisdiction, cannot be ratified by the Board of Governance. It is, therefore, contended that the impugned judgment be set aside.

- 14.** Learned counsel for NITC, submitted that proviso to Statute 30 of the NIT First Statutes, 2009, provide that resignation is effective on the date of acceptance and the request for withdrawal of the resignation was rightly rejected. It is contended that the respondent cannot claim reinstatement in DTU as well as NITC. It is contended that the impugned judgment does not call for any interference.

POINTS FOR DETERMINATION

- 15.** The following questions arise for determination:

- (i) Whether the acceptance of resignation of respondent, by an officer holding additional charge of Vice-Chancellor and admittedly not the competent authority under Section 23(2)(ix) of the 2009 Act, stood validated by the subsequent ratification of the BOM?
- (ii) Whether the Division Bench of the High Court of Kerala was justified in upholding the acceptance of resignation of

the respondent and the rejection of his request for withdrawal thereof?

ANALYSIS

Civil Appeal against the judgment of the High Court of Delhi

Re: Competent Authority

- 16.** Section 23(2)(ix) of the 2009 Act vests in the BOM the power and function “to appoint persons in teaching, administrative and ministerial posts”. It is the common ground between the parties that this provision, being the source of the power of appointment, is equally the repository of the power to accept the resignation from such posts, the latter being the necessary concomitant of the former. The BOM was, therefore, the competent authority to accept the respondent’s resignation. Professor Yogesh Singh, who purported to accept the resignation on 25.05.2016, held only additional charge of Vice-Chancellor, at the relevant time, and the power of the BOM had not, consistent with the statutory scheme, been validly delegated to him. To this extent, the view taken by the Division Bench calls for no interference.

Re: Doctrine of Ratification

- 17.** The question that squarely arises, and which, in our view, was not addressed by the Division Bench with reference to the correct legal principle, is the effect of the ratification of the acceptance of resignation by the BOM at its 20th meeting held on 26.09.2016.
- 18.** Ratification, in its ordinary legal signification, denotes the confirmation or adoption, by a person or body possessing the requisite authority, of an act earlier done on its behalf without such authority, or done irregularly, so that the act is treated as valid from its inception. Black's Law Dictionary describes ratification as "the confirmation of a previous act done either by the party himself or by another". The doctrine finds its origin in the maxim ***ratihabitio mandato aequiparatur***, a subsequent ratification is equivalent to a prior command, refined further by the maxim ***omnis ratihabitio retrotrahitur et mandato priori aequiparatur***, which imports the principle of relation-back: a ratified act is deemed valid from the date of the original, unauthorised act, and not merely from the date of ratification.

19. This Court has, on more than one occasion, applied the doctrine in the above sense³. From these decisions, following legal principles about doctrine of ratification can be culled out:

- (i) Ratification means making a previously invalid act valid. It is the subsequent approval of an act that was initially done without authority.
- (ii) A subsequent ratification is equivalent to prior authority. Once the competent authority ratifies an act, the law treats it as though the authority had existed from the beginning. This is based on the maxim ***ratihabitio mandato aequiparatur***.
- (iii) Ratification operates retrospectively. It relates back to the date on which the original act was performed and cures the defect arising from the absence of prior authority.
- (iv) Only the competent authority can ratify an invalid act. The authority which is legally empowered to perform the act must itself approve or adopt the earlier unauthorised action.

³ Sri Parmeshwari Prasad Gupta v. Union of India, (1973) 2 SCC 543; High Court of Judicature for Rajasthan v. P.P. Singh & Anr., (2003) 4 SCC 239; Maharashtra State Mining Corpn. v. Sunil S/o Pundikarao Pathak, (2006) 5 SCC 96, National Institute of Technology & Anr. v. Pannalal Choudhury & Anr., (2015) 11 SCC 669 and Municipal Commissioner, Jamnagar Municipal Corporation (supra)

- (v) Express approval of the earlier action is sufficient. It is not necessary for the competent authority to pass a fresh order. A resolution or decision approving the earlier unauthorised act amounts to valid ratification.
- (vi) Ratification cures defects of authority, not acts that are inherently illegal. The doctrine applies where the act could have been validly performed by the competent authority in the first place. It cannot validate an act that is void because it is prohibited by law or beyond the power of the authority.

20. Another principle which arises for consideration in these appeals may be stated. A resignation, even where accepted in the first instance by one not clothed with authority to accept it, may nonetheless become a consummated and irrevocable transaction where both sides have, by their conduct, treated it as final and altered their positions upon that footing. In such a case, an employee is precluded, not by any doctrine of curative ratification, but by the ordinary principle against approbation and reprobation, from later impugning the very transaction he brought about and from which he has already taken the entire benefit.

- 21.** This principle finds support in a decision of the House of Lords⁴ which is noted in a decision of this Court⁵. There, a resignation tendered on the footing that formal acceptance would follow at a later date was held incapable of unilateral withdrawal, the resigner having, in Lord Halsbury's words, already "consummated" the arrangement by his own conduct before he purported to revoke. Lord Watson likewise held that a resigner who has done all that lay in his power to complete a transaction cannot later be permitted to upset it merely because formal acceptance was still awaited.
- 22.** Tested on the touch stone of this principle, the fault in this matter lies squarely at the respondent's own door, and not merely in the accepting officer's want of authority. It was the respondent who initiated the process by tendering resignation and then went further, of his own volition, to request waiver of the notice period and acceptance with effect from an advanced date 31.05.2016 rather than the original date of 31.08.2016, he himself had proposed. The university acted on that very request: it relieved him with effect from the date he requested, accepted his no-dues certificate, and issued him his last pay

⁴ *Reichel v. Bishop of Oxford*, (1889) 14 AC 259

⁵ *Gopal Chandra Misra & Ors.* (supra)

and experience certificate. Every step that rendered the resignation complete, in fact was taken either at the respondent's own instance or with his express concurrence. The fact that the officer who signed the acceptance held only additional charge, and was not the BOM, is a defect in the University's internal administration of which the respondent was not even aware, and did not complain of, until 22.09.2016, nearly four months later. The resignation thus stood consummated by the conduct of the parties, and in particular by the respondent's own conduct.

- 23.** That the respondent's conduct in the *interregnum* was not the product of mere delay or inadvertence, but a conscious treatment of his resignation as final, is confirmed by the fact, as found by the Division Bench itself, is that he proceeded to secure fresh, gainful employment, joining the NITC as Deputy Registrar on 08.02.2017, on the strength of the very experience certificate DTU had issued to him. Having taken the settlement, the relief, and the certificate, and having used that certificate to open the door to another appointment, the respondent cannot, upon being disappointed of that appointment or upon mere

reconsideration, turn back and treat the resignation he himself procured as a nullity.

- 24.** He cannot have his cake and eat it too, i.e. he cannot claim the benefits of a completed exit from DTU when it suited him to move on, and simultaneously claim that no exit ever legally occurred when it suits him to return. This conclusion is reinforced by the decisions cited by the appellant recognising that an employee who has acted upon, and accepted the consequences of his own resignation cannot later found a challenge on a technical infirmity in the mode of its acceptance.
- 25.** The Division Bench, while correctly holding that Professor Yogesh Singh lacked competence to accept the resignation, fell into error in failing to appreciate the legal consequence of its ratification by the BOM. The respondent's letter of withdrawal dated 22.09.2016, addressed nearly four months after he had already ceased to be in service and had accepted all consequential benefits flowing therefrom, cannot be equated with the withdrawal of a resignation yet to take legal effect. Once ratified, the acceptance related back to 25.05.2016, the date his resignation accepted by the In-charge Vice-Chancellor, there was, in point of law, no resignation left in existence which

he could have withdrawn on 22.09.2016. For the foregoing reasons, the impugned judgment of the High Court of Delhi in L.P.A. No. 68 of 2022, insofar as it directs reinstatement of the respondent, cannot be sustained.

Civil Appeal against the judgment of the High Court of Kerala

- 26.** We now turn to the connected appeal preferred by respondent, assailing the judgment of the Division Bench on the following grounds, namely (i) his resignation had not become effective, in the absence of communication of acceptance; (ii) he possessed an unqualified right to withdraw it before being relieved; (iii) the refusal to permit withdrawal was arbitrary; and (iv) the acceptance, being conditioned upon a notice period, was merely prospective; therefore the order dated 07.01.2019 and the consequent denial of reinstatement were, for aforesaid grounds, unsustainable. Having considered the aforesaid submissions, we find no fault with the impugned judgment and no merit in the appeal, for the following reasons.

Re: Effectiveness of Resignation

- 27.** The proviso to Statute 30 of the NIT First Statutes, 2009, is explicit that resignation “shall take effect only on the date on which the resignation is accepted by the appointing authority”.

It imposes neither any requirement of communication as a condition of efficacy, nor does it make effectiveness of acceptance of resignation contingent upon expiry of the notice period. The respondent's resignation was accepted on 22.11.2018; that is the date on which it became effective in law. The notice period thereafter regulated only the date of his actual relieving, namely 11.01.2019, and did not hold the acceptance itself in abeyance. The Division Bench was, therefore, correct in reversing the view of the learned Single Judge that acceptance was to be treated as prospective, and equally correct in holding, that non-communication of an acceptance which has, in fact, already been made by the competent authority does not keep the resignation alive for withdrawal. The respondent's letter dated 28.11.2018 was, accordingly, addressed after the resignation had already taken legal effect. The view taken by the Division Bench is in consonance with the decision of this Court⁶.

Re: Refusal to Permit Withdrawal

- 28.** Paragraph 3 of the Office Memorandum dated 11.02.1988, while recognising withdrawal of an accepted resignation before actual relieving as the normal rule, expressly preserves to the

⁶ Raj Kumar v. Union of India, AIR 1969 SC 180.

competent authority the discretion to refuse such withdrawal, subject to the safeguard that reasons be recorded and communicated. That discretion was duly and lawfully exercised in the present case. The respondent had, in his own letter of resignation, recorded that he was “not interested to work anymore” in the Institute; his request for withdrawal followed immediately upon his selection on deputation with the East Delhi Municipal Corporation and was, on its own terms, confined to seek leave to join that Corporation.

- 29.** On this material, the competent authority’s conclusion, recorded in order dated 07.01.2019, that the respondent had no genuine intention of continuing in service and that the request for withdrawal was opportunistic, was a plausible and rational view. It is not for a court, exercising jurisdiction under Article 226 of the Constitution, to substitute its own view of the sufficiency of such reasons for that of the competent authority, in the absence *mala fides*, perversity, or a demonstrated violation of law. The reliance placed by the respondent on the decision of this Court⁷ does not assist the respondent since

⁷Gopal Chandra Misra & Ors. and Captain Gurdarshan Kaur Sandhu (supra)

both decisions recognise that the general right to withdraw a prospective resignation yields wherever special statutory or regulatory provisions governs the subject, such as Statute 30 of NIT First Statutes, 2009, and the Office Memorandum dated 11.02.1988 and it is precisely such a case that is presented on these facts.

Re: Validity of Order Dated 07.01.2019 and Consequential Reliefs

- 30.** It follows that order dated 07.01.2019 suffers from no infirmity warranting interference. It is neither contrary to any provision of law nor is founded on inadmissible material. It also does not exclude relevant material, and cannot be said to be a conclusion which no reasonable authority could have reached. Reinstatement being a relief consequential upon the resignation being held invalid or its withdrawal having been wrongly refused. Both the questions have been correctly answered against the respondent by the Division Bench. Therefore, the claim for denial of back wages, does not arise. In view of preceding analysis, no case is made out for interference with the impugned judgment dated 01.12.2020.

CONCLUSION

31. For the reasons recorded hereinabove:

- (i) Civil Appeal No. 9308 of 2024 (Delhi Technological University v. B.S. Rawat) is allowed. The impugned judgment dated 08.08.2022 of the High Court of Delhi in L.P.A. No. 68 of 2022 is set aside insofar as it directs reinstatement of the respondent, and W.P. (C) No. 2611 of 2019 stands dismissed.
- (ii) Civil Appeal No. 9309 of 2024 (B.S. Rawat v. Delhi Technological University) is dismissed.
- (iii) Special Leave Petition (C) Nos. 625-626 of 2021 (Bharat Singh Rawat v. National Institute of Technology, Calicut) is dismissed.

32. There shall be no order as to costs. Pending applications, if any, stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

**NEW DELHI;
AUGUST 04, 2026.**