

# LEGALFOXES LAW TIMES

## CASE COMMENT ON SANJAY JAIN VS. NATIONAL AVIATION CO. OF INDIA

LTD. 2018

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### **Facts:**

Sanjay Jain is an assistant aircraft engineer in the National Aviation Company with the engineering department's major maintenance division. He joined Air India in 1992. He was expected to work in Air India for a minimum of five years in his appointment letter. After more than five years of service, Jain left in 2006 and gave 30 days' notice to join Jet Airways. He went to Air India to get his outstanding debts, provident fund, gratuity, and unpaid salaries paid. Air India, Meanwhile, on July 16, 2008, Air India sent him a letter stating that since his resignation had not been accepted, he had to report for work. The respondent (Air India Limited) asserts that under the company's approved standing orders enacted under The Industrial Employment (Standing Orders) Act, 1946, an employee must give 30 days' notice and accept his or her resignation. Jain's writ suit was denied by the Bombay High Court due to the fact that resignation acceptance was required. On appeal, the Supreme Court held that it was obvious from a simple reading of the provisions contained in standing order 18 of the Industrial Employment (Standing Orders) Act, 1946 that a worker can resign by serving a notice from employment within 30 days and observed it was his right. The Supreme Court overruled the Bombay High Court's decision and ordered Air India to pay Jain all due rewards.

### **Issues:**

Whether an employee has the right to resign from employment without serving 30 days' notice period?

Whether the employee has to wait for the acceptance letter from the employer for resignation after serving the notice period?

**Analysis:**

According to the court's interpretation of the standing orders, an acceptance of resignation is<sup>1</sup>only necessary for this circumstance if there is a spot resignation or at any point before the notice period expires. If 30 days' notice has been given, acceptance of the resignation is not needed. Mr. Jain can resign from his employment and observed it was his right, and his employment contract was for five years, which was admittedly over at the time of his<sup>2</sup>resignation, and he was not the subject of a disciplinary investigation. According to the Supreme Court, an employee has the right to resign, and no one can be forced to serve notice on them unless it is specified in the terms and conditions of their employment contract with the company.

The court also observed, When an employee states that his effective resignation date will be in the future within the period specified in his employment contract, effective acceptance of his resignation without his wishes prior to that date amounts to forcing a date of termination, i.e., a forced resignation. The employee has the right to quit their position, and they cannot be forced to continue if they do not want to. Only if there are stipulations in the employee's employment contract that restrict them from leaving, or if disciplinary actions are underway or imminent and are sought to be avoided by resigning from the position, can an employee be prevented from leaving.

The petitioner has cited the verdicts in the cases of the **State of U.P. v. Achal Singh (2018)**, **Dinesh Chandra Sangma v. State of Assam**, and **Punjab National Bank v. P.K. Mittal (1989)**.

Under these 3 cases, I have dealt with 2 cases i.e. **Punjab National Bank v. P.K. Mittal (1989)** and **State of U.P. v. Achal Singh (2018)**

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<sup>1</sup> (Sanjay Jain vs National Aviation Co. Of India, 2018)  
(Amrute, 2021)

<sup>2</sup> (The State Of Uttar Pradesh vs Achal Singh, 2018)  
(Punjab National Bank vs P.K. Mittal on 13 February, 1989)  
(Moti Ram vs Param Dev And Anr on 5 March,, 1993)

**Punjab National Bank v. P.K. Mittal (1989)**

The High Court stated during the hearing that it is an employee's voluntary act to resign from his or her obligations, select the day on which the resignation will take effect, and provide notice to the employer.

**State of U.P. v. Achal Singh (2018)**

According to the ruling, "If all the doctors were allowed to retire, the situation would be chaotic and there would be no doctors left in government hospitals, which would be against the idea of the welfare state and harmful to the public interest." The right under Article 19(1) (g) is subject to the interest of the general public and the right to life, so the right to retire cannot be superior to the right to life.

The Respondent's Advocate has argued that accepting resignation was essential based on this Court's ruling in **Moti Ram v. Param Dev and Anr. (1993)**.

Consider the clauses included in Standing Rules 17 and 18 of the Standing orders drafted under the Act of 1946 by Air India to understand the opposing Arguments.

**17. Termination of employment:**

The Competent Authority may terminate a worker's employment without assigning reason in the following circumstances:

(a) A permanent worker may be discharged by giving written notice of termination of employment of 30 days or by paying wages in lieu of notice.

According to Clause 2 of Standing Order 18, acceptance is required whether a resignation is filed with immediate effect or at any other time before the end of the notice period. If a 30-day notice has been given, resignation does not need to be accepted.

A worker has the right to give notice of his resignation to his employer along with a 30-day notice period.

Where in this case, Jain has served a notice period of 30 days and doesn't immediately relieve from the company.

**18. Resignation:** No employee of the Company may resign from employment without first providing the notice required by Standing Order 17 in the event that his services are to be terminated, or by providing compensation in lieu of such notice unless the employee requests that the notice be waived or a shorter notice be accepted in writing by the Competent Authority. In accordance with Regulation 22 (2) of the Air India Employees Provident Fund Regulations, 1954, such compensation shall be equivalent to the amount of wages, as defined in the explanation to Standing Order 17, that the employee would have received during the period by which the notice falls short of the prescribed period.

**Legal Provision:**

Industrial Employment (Standing order) act, of 1946 allows businesses to describe the conditions of service at their workplaces in writing and have it verified by the appropriate authorities to avoid "industrial disputes.

Section 14 of the Specific Relief Act of 1963 restricts the enforcement of any contract relating to personal service in a court of law, which implies the employer's power to recover "in lieu" of the notice period is limited.

Section 27 of the Indian Contract Act - Every agreement prohibiting someone from engaging in a lawful profession, trade, or business of any type is null and void to that extent. It indicates that the "employment letter" or "work contract" is a legally binding document for the employee who signs it.

Article 19 protects their right to practice any profession, trade, business, or occupation.

According to Article 13, any legislation that violates or is contrary to the fundamental rights of its people is null and void. Therefore, if an employee feels that they are being denied a fundamental right, they may file a complaint with either the High Courts (Article 226) or the Supreme Court of India (Article 32), and these courts may dissolve the unconstitutional and oppressive laws.

**Opinion**

It is the employee's right to resign from an organization after serving the notice period for appropriate months. An employee can relieve from an organization only after serving the notice period or wages in lieu of notice. The company's acceptance letter is not necessary if the employee had served the notice period. The company's acceptance letter is necessary when spot resignation takes place.

Contract of service - Employees that engage in daily service work for the organization signs a contract of service, which is similar to an employment contract.

Here, Jain works under the contract of service. He has the right to serve for his resignation.

**Conclusion:**

The Sanjay Jain case is the landmark case in the Industrial Employment (standing orders) Act, of 1946 which emphasized the importance of the terms and conditions in the contract of employment. Thus, the outline of the case is that "to resign is an employee's right".

The Judges who gave a verdict for the case were HON'BLE MR. JUSTICE ARUN MISHRA and HON'BLE MR. JUSTICE VINEET SARAN.