

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.23075 of 2012 (O&M)
Date of decision: 30.03.2015**

Sh. Rajesh Kumar

... Petitioner

Vs.

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. P.C.Arora, Advocate
for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

AMIT RAWAL J. (ORAL)

Challenge in the present writ petition is to the order dated 11.05.2012 (Annexure P-1), whereby, the petitioner had sought relieving from the office of the Director General of Prisons, Haryana, Panchkula, on account of having been selected as Store Keeper in Health Department through proper channel.

It is not in dispute that permission was granted to the petitioner to appear for the said post and he has been selected. The only controversy which requires to be adjudicated is “whether the petitioner has tendered resignation or sought permission to join the new place of posting and whether he would be given the benefit of

his previous service or not.

The authorities have rejected the representation by relying upon the provisions of Rule 3.17/Note 3 of the Punjab Civil Services Rules Volume II.

Learned counsel for the petitioner contends that the petitioner had sought permission of the department to relieve him and to join new place of posting on the premise that in case, he does not seek any permission, benefit of service rendered by him in the previous office would not be continued.

Learned State counsel appearing on behalf of the respondent relied upon the aforementioned Note by contending that any person holding temporary post is required to seek permission of the administrator/authority concerned.

I have heard learned counsel for the parties and am of the view that language of Note 3 of Rule 3.17 of the Punjab Civil Services Rules Volume II, is clear and un-ambiguous and does not require any interpretation. The stand taken by the respondents in the impugned order dated 11.05.2012 (Annexure P-1) is not sustainable in the eyes of law. Since the petitioner had sought the permission for being relieved, it should be treated as permission to leave the department and to join the new department. The department while rejecting the application had not read the provision, *ibid*, used in its correct perspective. The impugned order, is hereby, set aside. Since the petitioner has already filed an application to join at new place of

posting and in case, the petitioner choose to file fresh application, he may do so and on filing of such application, it is directed that respondents shall grant permission to the petitioner, strictly in accordance with the provisions of Note 3 Rule 3.17 of the Punjab Civil Services Rules Volume II, so as to enable the petitioner to join the new place of posting, whereby, he has been selected.

Accordingly, the civil writ petition is disposed of.

It is expected that if the petitioner files an application, the authorities shall grant permission to him within a period of two months from the receipt of a certified copy of this order. While granting permission, respondents shall consider the provisions of the aforementioned Rules, much less, also consider the factum the period which the petitioner has served as Warder on a temporary post.

(AMIT RAWAL)
JUDGE

March 30, 2015
savita