

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

218

**CWP No. 2935 of 2014 (O&M)
Date of decision: 21.04.2016**

Vijay Kumar

....Appellant

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

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

Present: Mr. Ram Niwas Sharma, Advocate for the appellant.

Mr. Rajeev Makkad, DAG, Haryana.

P.B. Bajanthri, J.

The petitioner has questioned the validity of the order of the Trial court dated 15.09.2012 and judgment dated 21.09.2012 of Additional District Judge, Narnaul. Claim of the petitioner is that he is entitled for pension under the Punjab Civil Services Rules. Both the Courts have held that the petitioner is not entitled to pension for the reasons that he has resigned the post held by him and he is not a pensioner so as to claim pension under the Punjab Civil Services Rules.

Learned counsel for the petitioner vehemently contended that petitioner's resignation was accepted on 04.01.1993 and thereafter his services have been relieved. Consequently, petitioner is entitled to pension

under Rule 4.19. An extract of Rule 4.19 is reproduced herein:-

“4.19.(a) Resignation from public service, dismissal or removal from it, either under proviso (c) to Article 311(2) of the Constitution for over anti-national activities such as sabotage, espionage etc. or for misconduct, insolvency, inefficiency not due to age or failure to pass a prescribed examination, entails forfeiture of past service and no pension shall be granted in the aforementioned circumstances.

Provided that in the cases of those Government employees whose removal or dismissal results from participation in other objectionable activities affecting or endangering the security of the State, such proportionate pension may be granted as may be recommended by the Committee of the Advisors constituted under the Haryana Civil Services (Safe-guarding of National Security) Rules, 1971.

(b) Resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not a resignation of public service.

In cases where an interruption in service is inevitable due to the two appointments being at different stations, such interruptions, not exceeding the joining time permissible under the rules on transfer, shall be covered by grant of leave of any kind due to the Government employee on the date of relief or by formal condonation under Rule 4.23 to the extent to which the period is not covered by

leave due to the Government employee.

Note.— *The previous service of a Government employee who is transferred to a temporary appointment is forfeited by his resigning the temporary appointment and taking up another temporary appointment of his own accord”*

Learned counsel for the petitioner also relied on para 6.16(2). Reading of Rule 4.19(a) it is clear that employees who have resigned, dismissed and removed from service are not entitled to pension whereas proviso to 4.19(a) is not pertaining to employee who had resigned. It provides to such of those cases namely Government employees whose removal or dismissal results from participation in other objectionable activities affecting or endangering the security of the State, such proportionate pension may be granted as may be recommended by the Committee of the Advisors constituted under the Haryana Civil Services (Safe-guarding of National Security) Rules 1971. The said proviso is restricted to such of those employees whose services have been removed or dismissed. Therefore, the petitioner's claim for pension do not fall under Rule 4.19(a). Consequently, examination of Rule 6.16 (2) do not arise. Rule 6.16(2) is applicable only to the pensioners and not to the employees who have resigned the post. The petitioner has not make out a case so as to interfere with the orders of both the Courts below.

Accordingly, the petition is dismissed.

21.04.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**