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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-2081-CWP-2025 in/&
CWP-10354-2024
Date of Decision :10.02.2025

Parveen Saini

...Petitioner

Versus

District & Sessions Judge, Kaithal

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. L.K. Gollen, Advocate with Ms. Bharti, Advocate
for the petitioner.

Mr. B.S. Khehar, Advocate for the respondent.

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Harsimran Singh Sethi, J. (Oral)

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1. As prayed for, application is allowed.
2. Replication to the written statement filed on behalf of the respondents is taken on record.

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3. In the present petition, the grievance being raised by the petitioner is that the petitioner while working in the office of District and Sessions Judge, Kaithal competed for the post of TGT (English) and ultimately got selected on 04.10.2022 and the petitioner thereafter, applied to be relieved by submitting resignation, which was accepted but the petitioner was made to deposit one month salary so as to treat the resignation as a normal resignation instead of technical resignation.

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4. Learned counsel for the petitioner submits that the same issue has already been decided by this Court while passing order in **CWP-35184-2019 titled as Ram Mehar Singh and another vs. State of Punjab and others with other connected cases, decided on 21.01.2025.** Learned counsel for the petitioner further submits in the said cases also, before appearing for the examination qua the post of Clerk, permission was sought and the same was given by the concerned District & Sessions Judge and in the present case also, the petitioner was given no objection certificate/permission vide Annexure P/4 to compete for the post of TGT (English) and hence, the resignation submitted by the petitioner should be treated as technical resignation so that the petitioner can claim the benefit of continuity in service and all other benefits from the new department and also the refund of the one month salary.

5. Learned counsel for the respondents submits that in the present case, the petitioner was selected in October, 2022 but he gave his resignation after one month hence, the petitioner was asked to deposit one month salary by treating the resignation as normal resignation.

6. Learned counsel for the respondents further submits that resignation is only to be treated as technical resignation in case, the permission is taken at the time of applying and not at the time of appearing in the competitive examination and vide Annexure P/4, only the permission was given to compete for the post with the condition that he will be relieved from the post as per the rules and hence, the claim of the petitioner for the refund of the one month's salary and to treat the resignation as a technical resignation may kindly be rejected.

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7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. The question as to under what circumstances, the resignation is to be treated as technical resignation, has already been decided by this Court in **Ram Mehar Singh (supra)**. The facts of the present case as well as in the case of **Ram Mehar Singh (supra)** are similar wherein, also while appearing in the competitive examination, no objection was sought by the similarly situated employees which permission was given by the concerned District and Sessions Judge, which was treated to be valid permission so as to appear and compete for the another post so as to treat the resignation as a technical resignation. Once, the issue has already been decided by this Court while passing order in **Ram Mehar Singh (supra)**, the present petition is also allowed in the same terms so as to direct the respondent that the resignation submitted by the petitioner is to be treated as a technical resignation and not as normal resignation and one month's salary deposited by the petitioner be refunded to him within a period of four weeks from the date of receipt of copy of this order.

9. Let the service book of the petitioner be transferred to the new department where the petitioner has joined after resigning from the office of District and Sessions Judge, Kaithal.

10. Present petition is allowed in above terms.

February 10, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No