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

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CWP-13631-2020 (O&M)
Date of Decision: 05.08.2025.

PUSHPENDER SINGH

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

PRESENT: Mr. Jatinder Kumar Kamboj, Advocate,
for the petitioner.

Dr. (Ms.) Malvika Singh, DAG, Haryana.

VINOD S. BHARDWAJ, J (ORAL)

CM-8533-CWP-2025

Prayer in the present application is for early hearing of the main writ petition which was ordered to be listed after the decision in LPA NO.154 of 2021, vide order dated 18.09.2024.

For the reasons mentioned in the application, the same is allowed. The main case is taken on board for hearing today itself.

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Main case

Challenging the orders dated 11.08.2020 and 21.08.2020 whereby the petitioner has been repatriated and relieved from the post of Section Officer, the instant writ petition has been filed.

2 Learned counsel for the petitioner contends that the petitioner was appointed as a Clerk in the office of District and Sessions Judge, Karnal. He passed the S.A.S. Part-I Examination for the post of Section Officer (Finance Department) and was appointed as Section Officer on a vacant and sanctioned post, as a stop gap arrangement. He was relieved by Additional Civil Judge (Sr. Divn.), Bhiwani on 04.05.2012 and thereafter, joined his duties as Section Officer in the office of Superintending Engineer, Rewari Circle, Rewari. The counsel contends that lien of the petitioner to the post of Clerk was later terminated by the District and Sessions Judge, Bhiwani vide order bearing Endst. No.12707-11/G dated 23.06.2012. Learned counsel for the petitioner contends that the service rules provide that a Government employee will have lien on one post on successful completion of regular and satisfactory service of at least 03 years. But the petitioner has no lien on any of the post despite regular and satisfactory service of more than 17 years including more than 08 years' service as Section Officer.

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3 It is further submitted that the Superintending Engineer, Bhiwani, fixed the pay of the petitioner to the post of Section Officer w.e.f. 04.05.2012 vide order dated 16.01.2018 but did not release the pay and arrears. The petitioner requested for grant of regular pay scale for the post of Section Officer with all consequential benefits but the same was denied to him. The petitioner thus had to file CWP No.9415 of 2019 for grant of regular pay scale with all the consequential benefits. Similarly situated employee i.e. Baldev Krishan Sharma had filed CWP No.7312 of 2016 for granting regular pay scales for the post of Section Officer which was allowed vide judgment dated 17.11.2018. The Letters Patent Appeal No.1497 of 2019 and SLP No.8656 of 2020 were dismissed by the Division Bench of this Court and the Hon'ble Supreme Court respectively. It was specifically held by the Courts that the stop gap arrangement has to be for a short duration and cannot be perennial by nature.

4 It is alleged that in order to overcome the same, the respondents passed the order of repatriation vide Memo dated 11.08.2020 without any notice and only for the reason that the petitioner approached the Court for parity of the pay scale and other consequential benefits. The Superintending Engineer thereafter relieved the petitioner from the post of Section Officer despite the fact that the lien on the post of Clerk had already been terminated by the District and Sessions Judge, Bhiwani.

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5 It is not in dispute that the petitioner failed to pass the Subordinate Accounts Services (S.A.S.) Part II Examination that was conducted, hence, the order of repatriation was passed in the said circumstances.

6 The respondents in their written statement have mentioned that the petitioner only qualified the examination of S.A.S. Part-I on the basis whereof he was given appointment on 02.05.2012 against the post of Section Officer as a stop gap arrangement. The pay of the petitioner had been wrongly fixed by the Superintending Engineer, PWD (B&R), Circle Bhiwani, without any authority or competency since the fixation of the pay of the Section Officer had to be done by the Director Treasury and Accounts, Haryana and Finance Department which is the competent authority. Having failed to pass the S.A.S. examination over a period of 08 years, the repatriation order had been passed. It is mentioned that the petitioner is not possessing the qualification required for being absorbed in the S.A.S. Cadre and not being eligible, as per the service rules cannot claim his continuance as a Section Officer without being qualified to hold the said office. Hence, the order of repatriation has been rightly passed.

7 Petitioner has however responded to the aforesaid objection by contending that there are certain peculiar circumstances in the present case inasmuch as the petitioner is not even being re-inducted in his parent department by the District and Sessions Judge, Bhiwani and his claim had been declined vide order dated 19.01.2021.

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He contends that in terms of the circular dated 19.02.2015 and 19.06.2019 issued by the office of Chief Secretary to Government, Haryana, the employees of the District Court cannot be repatriated to their parent unit/department.

8 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petition.

9 No other argument is raised nor any judgment is cited.

10 So far as the issue of order of repatriation and its challenge is concerned, it is not in dispute that the petitioner failed to clear the S.A.S. Part II examination. Similarly situated persons from other departments had filed writ petitions before this Court i.e. CWP No.12807 of 2020 titled as 'Anil Kumar and another Vs. State of Haryana and others' as well as CWP No.12813 of 2020 titled as 'Kuldeep Singh and another vs. State of Haryana and others.' The said writ petitions were dismissed vide judgment dated 01.09.2020 and it was held that in the event an employee fails to qualify the S.A.S. Part II examination, he has no subsisting right to claim continuance of his appointment against the post of Section Officer. Further, as many as 16 writ petitions including CWP No.12970 of 2020 titled as 'Rajender Kumar Vs. State of Haryana and others' had been filed before this Court. The said writ petitions were dismissed by this Court vide order dated 22.09.2020 after

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referring to the aforesaid judgment dated 01.09.2020 in the matter of Anil Kumar and another Vs State of Haryana and others. Even though the LPAs against these judgments are pending, however, there is no stay on the judgment that had been passed by the learned Single Judge. Hence, the claim of the petitioner with respect to his right to continue as a Section Officer by impugning the order of repatriation cannot be accepted.

11 At this stage, petitioner points out the hardship faced by him as regards the parent department not accepting him back on the ground that his lien to the post of Clerk had already come to an end.

12 In so far as the said issue is concerned, it is not in dispute that vide order dated 23.06.2012 his lien to the post was terminated and further vide order dated 19.01.2021 passed by the District and Sessions Judge, Bhiwani (Annexures P-24), the representation submitted by the petitioner for his lien in his parent department was also dismissed by the District Judge, Bhiwani. However, the said order(s) are not a subject matter of challenge in the present writ petition. The petitioner has made an ardent effort to place reliance on the Circular dated 19.2.2015 (Annexure P-25) and Circular dated 19.6.2019 (Annexure P-26) issued by the Chief Secretary to Government, Haryana, to contend that the employees of the Subordinate Courts cannot be repatriated, however, on going

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through the said circulars, it is evident that the same pertains to the cases of employees who have been appointed by way of transfer and subsequently earned a promotion in such departments. The case of the petitioner is not that of an appointment by way of transfer, it is an appointment on the basis of petitioner having qualified the SA.S. Part I examination, and as a part of absorption, hence, the said instructions would not be applicable and would not come to the rescue of the petitioner. Appointment to a post, by transfer, assumes that the employee is already working in the same post/grade in some other department. The joining of the petitioner is not in the nature as above.

13 This Court refrains from commenting on the right of the petitioner, if any, to seek his re-appointment against the post in his parent department since the order(s) whereby the lien of the petitioner was terminated or the representation rejected are not a subject matter of challenge in the present case. The said issue can be examined as and when any such petition is preferred by the petitioner. The said issue is accordingly kept open.

14 Since the instant writ petition seeks only setting aside of the orders of repatriation dated 11.08.2020 and 21.08.2020 the same is however liable to be dismissed in the light of the judgment in the matter of **CWP No.12807 of 2020 titled as 'Anil Kumar and another Vs. State of Haryana ad others' as well as CWP**

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No.12813 of 2020 titled as ‘Kuldeep Singh and another vs. State of Haryana and others’ dismissed vide judgment dated 01.09.2020

wherein similar claims have already been rejected. The petitioner shall, however, be at liberty to file an appropriate writ petition impugning the order dated 19.01.2021 passed by the District and Sessions Judge, Bhiwani, declining the representation of the petitioner for his re-induction in his parent department.

15 Pending misc. application(s), if any, shall also stand(s) disposed of accordingly.

August 05, 2025.	(VINOD S. BHARDWAJ)
raj arora	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No