



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

121

CWP-12175-2026

Date of Decision: **22.04.2026**

Satish Kumar Kadian

.....Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Sarthak Gupta, Advocate for the petitioner.

Mr. Piyush Khanna, Addl. AG Haryana.

Mr. Vikrant Pamboo, Advocate for respondent No.3.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India with a prayer for issuance of an appropriate writ or order in the nature of *mandamus* directing the respondents No.1 and 2 to forthwith accept the joining of petitioner on the post of Clerk (Category No.380) in the office of respondent No.3 in pursuance of the provisional appointment letter dated 26.10.2024 (Annexure P-5). Further praying for issuance of a writ in the nature of *certiorari* for quashing the memo dated 29.07.2025 (Annexure P-12) and any internal noting, order or decision, if any passed at back of petitioner that rejects the genuine extension request of petitioner or cancels his candidature under the garb of Haryana Government



instructions dated 13.09.2019 (Annexure P-13) being contrary to the statutory rules as has been held by this Court. Further directing the respondents to grant all consequential benefits, including seniority, notional pay fixation and continuity of service on par with his batchmates who joined pursuant to advertisement No.4/2024.

PETITIONER'S CONTENTION

2. Learned counsel for the petitioner, *inter alia*, contends that respondent No.4 issued Advertisement No.4/2024 dated 28.06.2024 (Annexure P-1), inviting applications for various Group 'C' posts. Pursuant thereto, the petitioner applied for the post of Clerk in terms of the said advertisement. It is submitted that the petitioner, being enrolled in the Indian Air Force, had duly obtained a No Objection Certificate dated 08.04.2024 (Annexure P-2) permitting him to apply for the said post. The petitioner successfully cleared the selection process and was issued a provisional appointment letter dated 26.10.2024 (Annexure P-5).

2.1 It is further submitted that the petitioner's formal date of discharge from service was 31.03.2025, as reflected in Annexure P-2. In anticipation thereof, the petitioner submitted an application dated 07.11.2024 (Annexure P-6) to respondent No.3 seeking extension of time to join up to 02.04.2025. Pursuant thereto, a partial extension of three months, i.e. up to 06.02.2025, was granted. Thereafter, the petitioner submitted a further representation dated 06.02.2025 apprising the authorities of his impending discharge as well as his medical condition, as the petitioner was



suffering from Bell's palsy, which is duly evidenced from clinical notes dated 20.02.2025 and 25.03.2025 (Annexures P-9 and P-9-A).

2.2 It is contended that upon discharge and subsequent recuperation, the petitioner submitted a joining request dated 11.07.2025 (Annexure P-11). However, instead of facilitating his joining, respondent No.2 invoked Government instructions dated 13.09.2019 and directed respondent No.3 to furnish reasons for the delay, with a further indication that the candidature of the petitioner may be cancelled, vide memo dated 29.07.2025 (Annexure P-12). Thereafter, the petitioner submitted a detailed representation dated 06.11.2025 (Annexure P-14), explaining the delay on account of completion of military service and medical treatment. Subsequently, respondent No.3, upon due consideration of the matter, recommended acceptance of the petitioner's joining and forwarded the case to respondent No.2 vide memo dated 18.11.2025 (Annexure P-15).

2.3 Learned counsel further submits that the case of the petitioner is squarely covered by the judgments rendered by this Court in *Satish Khurana vs. State of Haryana (2024 NCPHHC 99293)* (Annexure P-16) and in *CWP-27283-2023* titled *Ravinder Singh vs. Haryana State Industrial & Infrastructure Development Corporation Limited and others*, decided on 22.12.2025 (*2025 NCPHHC 177159*) (Annexure P-17), wherein it has been categorically held that statutory rules framed under Article 309 of the Constitution of India have overriding effect and cannot be supplanted, diluted or overridden by executive/administrative instructions, though such



instructions may supplement the rules to the extent they are not inconsistent therewith.

2.4 It is further contended that the action of the respondents is in the teeth of Rule 82 of the Haryana Civil Services (General) Rules, 2016, which governs the grant of joining time and extension thereof. The said Rule confers discretion upon the competent authority to extend the joining period in appropriate cases for sufficient cause. The refusal to grant adequate extension to the petitioner, despite his discharge from defence service and medical condition, and instead proceeding on the basis of executive instructions, is stated to be arbitrary, unreasonable and contrary to the statutory mandate.

RESPONSE ON BEHALF OF RESPONDENT

3. On the other hand, learned counsel for respondent No.3 is not in a position to distinguish the case of the present petitioner from those involved in the judgments referred to hereinabove. He further fairly concedes that the said judgments have attained finality, as no intra-court appeal has been preferred against the same till date.

OBSERVATIONS AND ANALYSIS

4. The issue involved in the present petition regarding conflict between administrative instructions and statutory rules has already been dealt with in extenso by this Court in *Satish Khurana's case (supra)* and while relying upon Rule 82 of Haryana Civil Services (General) Rules,



2016, it was observed that the instructions dated 13.09.2019 have to be ignored.

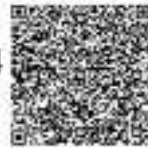
5. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

6. The case of the petitioner is squarely covered by the judgment passed by the Coordinate Bench of this Court *in Satish Khurana's case (supra)*, wherein following was observed: -

“9. A perusal of the annexures which have been attached along with the present writ petition which are the communications would show that when the petitioner was granted appointment letter vide Annexure P-3 dated 06.04.2022 then there was a stipulation in the appointment letter that the petitioner had to join the duty within a period of 30 days. As per the Instructions dated 13.09.2019 (Annexure P-8) issued by the Chief Secretary to the Government of Haryana, the aforesaid 30 days period can be extended for bona fide reasons by allowing suitable extension of time and the maximum period upto which the extension can be given is only 3 months. However, as per the Statutory Rules i.e. Haryana Civil Services (General) Rules, 2016, which have been attached as Annexure P-21, under Rule 82 there is no upper limit fixed for the Administrative Department. The relevant portion of Instructions dated 13.09.2019 (Annexure P-8) and Rule 82 of Statutory Rules, 2016 (Annexure P-21), is reproduced as under:-

Instructions dated 13.09.2019 (Annexure P-8) “2(ii) In case a candidate, who being already in service in a Private or Government Organization/Department, is not able to join within 30 days or for bona-fide reasons, the competent authority may, where the administrative requirements permit, allow suitable extension of time which should not however

2026.PHHC.061014



exceed three months irrespective of duration of validity of waiting list.”

Rule 82 of Haryana Civil Services (General) Rules, 2016

82. (1) A competent authority may in any case extend the joining time admissible under these rules; provided the general spirit of rule is observed.

(2) Subject to maximum of thirty days, the Heads of Departments may, in the case of Government employees under their control (other than the members of All India Services), extend the joining time admissible under the rules to the extent necessary in the following circumstances:

(a) When a Government employee has been unable to use the ordinary mode of travelling or, notwithstanding due diligence on his part, has spent more time on the journey than is allowed by the rules; or

(b) when such extension is considered necessary for the public convenience or for the saving of such public expenditure as is caused by unnecessary or purely formal transfer;

(c) when the rules have, in any particular case, operated harshly, as for example, when a Government employee has though no fault on his part i.e. missed a steamer, fallen sick on the journey, delayed on account of blockade of roads/railway track/ landslide.

Note.— The Head of Department is competent to extend joining time upto thirty days and Administrative Department has full power to extend the same beyond thirty days.

10. A perusal of the aforesaid would show that as per the aforesaid Instructions Annexure P-8, the maximum period for joining is three months irrespective of duration of validity of the waiting list and a perusal of aforesaid Rule 82 would show that thirty days can be extended by the Head of Department but there is no maximum limit shown and discretion is vested with the Administrative Department to extend the period of joining



beyond thirty days by virtue of Note attached with the aforesaid Rule-82. An argument was raised by both the learned counsels for respondents that no extension could have been granted beyond the period of three months in view of the aforesaid Instructions dated 13.09.2019 (Annexure P-8). A perusal of both the aforesaid annexures i.e. Annexure P-8 and Annexure P-21 would show that although there was no provision which had fixed the ceiling of three months under the Statutory Rules but by way of Administrative Instructions Annexure P-8, ceiling was fixed. It is a settled law that the Administrative Instructions cannot be issued contrary to the Statutory Rules. However, at the same time it is also a settled law that Administrative Instructions can always supplement and not supplant the relevant Rules. In regard to the aforesaid two propositions of law, this Court will have to consider as to what was the rationale and objective behind grant of extension of time. The purpose of inclusion of grant of extension under Rule 82 was as a beneficial measure in the interest of the candidates, who were to join and therefore, the extension itself is beneficial in nature, which has been so conferred upon the candidates or the appointees by virtue of Statutory Rules framed under proviso to Article 309 of the Constitution of India. In case by way of any Administrative Instructions anything was required to be supplemented then the same had to be in the spirit, rationale and objective of the Rules itself being beneficial in nature pertaining to Rule 82 but the scope has been restricted while issuance of Instructions Annexure P-8, which curtailed the nature of benefit, which was conferred by way of Statutory Rules. The Administrative Instructions can be issued to supplement the letter and spirit of the Statutory Rules but they cannot curtail the rights which has been conferred under the Rules. The Note attached to Rule 82 as reproduced clearly shows that the Head of Department can extend the time by 30

2026.PHHC.061014



days and Administrative Department can extend the same without any limit and rather has full power in this regard. Therefore, this Court is of the considered view that the aforesaid Administrative Instructions, whereby the period has been restricted would be contrary to the Statutory Rules and therefore, it has to be ignored for this purpose. Reference in this regard on the proposition of law may be laid to a Division Bench judgment of this Court passed in Raj Kumari versus Uttar Haryana Bijli Vitran Nigam Ltd. and others, 2008 (4) S.C.T. 411 and also the judgment of Hon'ble Supreme Court passed in Ashok Ram Parhad and others versus State of Maharashtra and others, 2023 SCC Online SC 265 in this regard.

11. A Division Bench of this Court in Raj Kumari's case (supra) observed as under:-

8. "The action of the respondents in withdrawing order dated 13.03.2007 on account of subsequent amendment, on that basis the amendment made by the State of Haryana on 9.8.2007 (R-1) is absolutely unwarranted and, therefore unsustainable in the eyes of law because the 2006 Rules have been framed under Article 309 of the Constitution and the letter dated 9.8.2007 (R1) has been issued by the Financial Commissioner and Principal Secretary to Government of Haryana. It is well settled that an order passed by the Financial Commissioner cannot have the effect of wiping the rules framed under Article 309 of the Constitution, which in the present case were framed on 1.8.2006 (P-9). A perusal of the notification dated 1.8.2006 shows that the 2006 Rules have been framed under Article 309 of the Constitution. It is trite to observe that the rules framed under Article 309 of the Constitution cannot be varied, substituted or amended even by issuing executive instructions under Article 162 of the Constitution. In that regard reliance may be placed on a Constitution Bench judgment of Hon'ble

2026.PHHC.061014



the Supreme Court in the case of Sant Ram Sharma v. State of Rajasthan, AIR 1967 Supreme Court 1910, which has been repeatedly followed, relied and applied in a number of cases including Dhananjay Malik v. State of Uttranchal, 2008(2) SCT 659: 2008(3) RAJ 249: (2008) 4 SCC 171 and A. Manoharan v. Union of India, (2008) 3 SCC 641, wherein it has been held that in any case such executive instructions cannot be given retrospective effect. In the present case, a letter issued by the Financial Commissioner, which can not even regarded as executive instructions under Article 162 of the Constitution, has been relied upon by the respondents to argue that the 2006 Rules framed under Article 309 of the Constitution (P-9) stand abrogated to adversely affect the rights of the petitioner. Such an argument apparently would not be acceptable. Therefore, issuance of impugned letters dated 21.09.2007 and 14.1.2008 (P6 & P-7) respectively, asking the petitioner to change her option once again by opting for one time lump-sum ex-gratia payment on the basis of the letter of the Financial Commissioner, dated 9.8.2007 as adopted by respondent No.1 on 6.9.2007, would be unsustainable and the same are, thus, liable to be set aside.

For the reasons aforementioned, this petition succeeds. The impugned letter dated 21.9.2007 (p-6) and the reminder dated 14.1.2008 (P-7) are hereby set aside. A direction is issued to the respondents to release all the benefits to the petitioner as envisaged by order dated 13.3.2007 (P-5). The needful shall be done within a period of two months from the date of receipt of a certified copy of the order.

The petition stands disposed of in the above terms. Petition allowed.”

12. The aforesaid judgment in Raj Kumari’s case (supra) was reiterated by another Division Bench of this Court in the case of The General Manager/Administrator, Dakshin Haryana

2026.PHHC.061014



Bijli Vitran Nigam Limited and others versus Pehladi in LPA No.935-2012. Relevant portion of the same is reproduced as under:-

6. *As pointed out above, the option is given under the Rules. These Rules were framed under proviso to Article 309 of the Constitution of India and, thus, have statutory force. The effect thereof cannot be nullified and these Rules cannot be supplanted by the administrative instructions in the manner it is to be sought vide circular dated 08.06.2007. Not only it is a trite proposition of law in respect of these very Rules, this particular proposition has been laid down by a Division Bench of this Court in Raj Kumari v. Uttar Haryana Bijli Vitran Nigam Ltd. and others, 2008 (4) S.C.T. 411: 2008 (4) RSJ 765.”*

13. *Hon'ble Supreme Court in Ashok Ram Parhad's case (supra) held as under:-*

“25. In service jurisprudence, the service rules are liable to prevail. There can be Government resolutions being inconsonance with or expounding the rules, but not in conflict with the same. On having set forth this general proposition, we now examine the scenario of the Rules as prevalent. If we turn to the statutory Rules framed under Article 309 of the Constitution, i.e., the 1984 Rules, Rule 2 refers to the appointment to the post of the DFO and the same to be made by promotion from amongst officers of the Maharashtra Forest Service and also by appointment directly. The Proviso to Rule 2 of the 1984 Rules is unambiguous and quite clear, i.e., the period spent on training at Government Forest Colleges and other period of probation including extended period of probation, if any, “shall not be counted towards the requisite period of service.” Thus, what is envisaged is that the appointment is different from the recruitment process, which starts with the commencement of training. There can be possibilities of a candidate not completing the training

2026.PHHC.061014



satisfactorily, thereby resulting in the candidate's removal on probation. Such probation period can also be extended to see whether a candidate improves in performance. (Hence, even if the Government Resolution dated 25.01.1990 upgraded the post." of ACF from Class II to Class I, the Proviso to Rule 2 of the 1984 Rules will continue to hold valid in determining the period of service.)

14. *As per the facts of the present case, even otherwise also it suggests that when the petitioner was granted appointment vide Annexure P-3 and he was granted 30 days' time for joining then before the expiry of 30 days, he wrote a letter to the respondent-HSAMB vide Annexure P-4 i.e. on 05.05.2022 by stating that he will not be able to join because of unavoidable personal reason and extension may be granted to him for one month. However, admittedly there was no order passed on the basis of request made by the petitioner for the grant of extension nor any such order has been placed on record. In this way, it is ex facie clear that the respondent-HSAMB has failed to discharge its duty to have not passed an order on extension. The aforesaid would gain more significance because of the reason that why the petitioner was wanting extension of time. He was already working in the Sub-Division, Mukerian in District Hoshiarpur and he had applied for the post of Steno-Typist (Both Languages) in the respondent-HSAMB through proper channel and for that purpose he had to tender technical resignation by giving 30 days' notice and to attain the aforesaid objective at least to save his service benefits, he wanted 30 days' time but the respondent-HSAMB negligently did not pass any order on the request of the petitioner, which it was bound to do so. However, surprisingly when Annexure P-5 was passed on 07.07.2022, then it has been so noted by the Secretary of the respondent-HSAMB that the petitioner had requested for one month time to join. In other*

2026.PHHC.061014



words, the respondent-HSAMB itself has acknowledged that the petitioner had made a request for grant of extension and therefore, there is no denial of the same at all which is so reflected in the aforesaid order Annexure P-5. On the top of it, the respondent-HSAMB gave only 15 days' time to the petitioner instead of giving 30 days' time as requested by him. There was no rationale or objective behind giving only 15 days' time because the petitioner had wanted an extension of 30 days and there was no justification to have granted only 15 days' time. The net consequence of the same was that the petitioner was left in a state of dilemma because he could not have tendered his technical resignation before the office of learned District and Sessions Judge, Hoshiarpur because he was not sure as to whether the HSAMB will grant him employment or not. This Court is of the considered view that the rights of the petitioner have been jeopardized because of the negligence on the part of the respondent-HSAMB to have not considered and replied to the petitioner before deciding the initial request of the petitioner, which he made vide Annexure P-4 dated 05.05.2022 for grant of extension of time.

15. In view of the aforesaid facts and circumstances of the present case, the present writ petition is allowed. The impugned orders dated 11.11.2022 (Annexure P-7) and dated 10.05.2023 (Annexure P-19) are hereby set aside. The respondent-HSAMB is hereby directed to issue a letter to the petitioner permitting him to join the services after giving him clear cut 30 days' time from receipt of such letter in order to enable him to tender his technical resignation to the office of the learned District and Sessions Judge, Hoshiarpur, if he so desires, and thereafter, proceed in accordance with law. The aforesaid exercise be completed within a period of three months from today."

(emphasis supplied)



7. Further, it is trite law that statutory rules cannot be superseded and dislodged by administrative instructions, however, if the rules are silent on any particular point, the government can fill up the gaps and supplement the rules and issue instructions to the extent that it is not inconsistent with the statutory rules that are already framed.

8. Having regard to the aforesaid facts and circumstances of the case and in view of the observations rendered by this Court in *Satish Khurana (supra)* and *Ravinder Singh (supra)*, the present writ petition deserves to be and is accordingly allowed. The petitioner is directed to report for joining on the post in question in pursuance of appointment letter dated 26.10.2024 (Annexure P-5) within a period of one month from the date of receipt of a certified copy of this order. The respondents are directed to accept the joining of the petitioner and proceed in accordance with law.

9. The petitioner shall be entitled to all consequential benefits, including placement in the merit list in accordance with his position therein, along with notional continuity of service. However, it is made clear that the petitioner shall not be entitled to any back wages for the period he did not actually discharge his duties.

10. Pending miscellaneous application(s), if any, be also disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

22.04.2026

Puneet Chawla

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No