

**CWP-17193-2026****1**

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

(111)**CWP-17193-2026****Date of Decision : May 27, 2026****Union of India and another****.. Petitioners****Versus****Komalpreet Kaur and others****.. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Piyush Khanna, Advocate, for the petitioners.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 17.10.2025 (Annexure P-3) passed by respondent No.3- Central Administrative Tribunal, Chandigarh in O.A No.060/192/2022 (hereinafter referred to as 'the Tribunal') by which, the benefit of protection of pay has been granted in favour of respondent No.1.

2. Learned counsel for the petitioners submits that though, the rules governing the issue also prescribed the protection of pay but the same can only be done in case, the lien of the officer in the previous post by the earlier employer is kept till the confirmation of such officers, with the PGI.

3. Learned counsel for the petitioners further submits that as the lien was not kept by the previous office i.e. Guru Gobind Singh Medical College and Hospital, Faridkot, the benefit of protection of pay was not granted, which fact has not been appreciated by the Tribunal in the correct prospective.

4. We have heard learned counsel for the petitioners and have gone through the record with his able assistance.



5. It may be noticed that it has already come on record that respondent No.1 competed for the post of Newclear Medicine Physicist with the PGIMER with due 'No Objection' (NOC) from her previous employer i.e. Guru Gobind Singh Medical College and Hospital, Faridkot and after being selected, she had only given a technical resignation so as to join the PGIMER. The technical resignation is only given for the purpose that permission is granted to join the new post without being affected by any of the exclusion which are the result of resignation.

6. In the present case, once the technical resignation was given, it has to technically mean that since respondent No.1 is confirmed with new organization, her lien remains with the earlier organization. The Tribunal has rightly appreciated the same to mean that the technical resignation is not a resignation simplicitor but only a resignation to join the new post with protection of all the benefits admissible to a regular employee in the previous organization.

7. Further, in paragraph 13 of the impugned order dated 17.10.2025 (Annexure P-3), the following has been noted by the Tribunal.

“ 13. These guidelines/instructions on Technical Resignation and Lien issued by the Government of India, DoP&T, from time to time including 26.12.2013 have been consolidated vide OM dated 17.08.2016. These instructions/guidelines would also apply to the employees of Punjab in view of instructions dated 19.02.2016 issued by the Government of Punjab. In this context, the relevant para 2.1 of O.M dated 17.08.2016 issued by the DoP&T would be relevant to extract hereunder:-

2.1 As per the Ministry of Finance OM No. 3379-E.III (B)/65 dated the 17th June, 1965, the resignation is treated as a technical formality where a Government servant has



applied through proper channel for a post in the same or some other Department, and is on selection, required to resign the previous post for administrative reasons. The resignation will be treated as technical resignation if these conditions are met, even if the Government servant has not mentioned the word “Technical” while submitting his resignation. The benefit of past service, if otherwise admissible under rules, may be given in such cases.

Further, as per instructions, the technical resignation shall not result in the lapse of leave to the credit of the Government servant. The para 2.2 deals with the situation in which the leave benefit will be carried forward. The paras relevant to the issue in hand are quoted hereunder:-

2.4 Pay Protection, eligibility of past service for reckoning of the minimum period for grant of Annual Increment

In cases of appointment of a Government servant to another post in Government on acceptance of technical resignation, the protection of pay is given in terms of the Ministry of Finance OM No. 3379-E.III (B)/65 dated the 17th June, 1965 read with proviso to FR 22-B. Thus, if the pay fixed in the new post is less than his pay in the post he holds substantively, he will draw the presumptive pay of the pay he holds substantively as define in FR-9(24). Past service rendered by such a Government servant is taken into account for reckoning of the minimum period for grant of annual increment in the new post/ service/ cadre in Government under the provisions of FR 26 read with Rule 10 of CCS (RP) Rules, 2016. In case the Government servant rejoins his earlier posts, he will be entitled to increments for the period of his absence from that post.

3.1 Lien

3.1.1 Lien is defined in FR 9(13). It represents the right of a Government employee to hold a regular post, whether permanent or temporary, either immediately or on the



termination of the period of absence. The benefit of having a lien in a post/service/cadre is enjoyed by all employees who are confirmed in the post/service/cadre of entry or who have been promoted to a higher post, declared as having completed the probation where it is prescribed. It is also available to those who have been promoted on regular basis to a higher post where no probation is prescribed under the rules, as the case may be.

3.1.2 The above right will, however, be subject to the condition that the junior-most person in the cadre will be liable to be reverted to the lower post/service/cadre if at any time the number of persons so entitled is more than the posts available in that cadre/service.

(DOPT's O.M No.1801 1/1/86-Eatt (D) dated 28.03.1998) 1.1998)

3.2 Lien on a post

A Government servant who has acquired a lien on a post retains a lien on that post-

- (a) while performing the duties of that post;*
- (b) while on foreign service, or holding a temporary post or officiating in another post;*
- (c) during joining time on transfer to another post; unless is he is transferred substantively to a post on lower pay, in which case his lien is transferred the new post from the date on which he is relieved of his duties in the old post;*
- (d) while on leave; and*
- (e) while under suspension.*

A Government servant on acquiring a lien on a post will cease to hold any lien previously acquired on any other post.

3.3 Retention of lien for appointment in another Central Government office/State Government

- (i) A permanent Government servant appointed in another Central Government Department/Office/ State Government, has to resign from his parent department unless he reverts to*



that department within a period of 2 years, or 3 years in unless he exceptional cases. An undertaking to abide by this condition may be taken from him at the time of forwarding of his application to other departments/offices.

(ii) The exceptional cases may be when the Government servant is not confirmed in the department/office where he has joined within a period of 2 years. In such cases he may be permitted to retain the lien in the parent department/ office for one more year. While granting such permission, a fresh undertaking similar to the one indicated above may be taken from the employee.

(iii) Timely action should be taken to ensure extension/ reversion/ resignation of the employees to their parent cadres on completion of the prescribed period of 2/3 years. In cases, where employees do not respond to instructions, suitable action should be initiated against them for violating the agreement/ undertaking given by them as per (i) and (ii) above and for termination of their lien. Adequate opportunity may, however, be given to the officer prior to such consideration.

(iv) Temporary Government servants will be required to sever connections with the Government in case of their selection for outside posts. No lien will be retained in such cases.

(DOPT O.M No.8/4/70-Estt (C) dated 06.03.1974)

“ Termination of Lien

*3.4. 1 A Government servant's lien on a post may in no circumstances be terminated even with his consent if the result will be to leave him without a lien upon a permanent post. Unless his lien is transferred, a Government servant holding substantively a permanent post retains lien on that post. **It will not be correct to deny a Government servant lien to a post he was holding substantively on the plea that he had not requested for retention of lien while submitting his Technical Resignation, or to relieve such a Government servant with a***



condition on that no lien will be retained.

3.4.2 A Government employee's lien on a post shall stand terminated on his acquiring a lien on a permanent post (whether under the Central Government or a State Government) outside the cadre on which he is borne.

3.4.3 No lien shall be retained:

a. where a Government servant has proceeded on immediate absorption basis to a post or service outside his service/ cadre/ post in the Government from the date of absorption; and

b. on foreign service/ deputation beyond the maximum limit admissible under the orders of the Government issued from time to time.”

8. A bare perusal of the said O.M dated 17.08.2016 shows that even the Government of India has given instructions/guidelines which would also apply to the employees of Punjab in view of instructions dated 19.12.2016 issued by the Government of Punjab mentioned that all the benefits including the pay protection is to be given qua the technical resignation. Hence, the view taken by the Tribunal is in consonance with the instructions issued by the Government of India O.M. dated 17.08.2016.

9. Learned counsel for the petitioners has not been able to rebut the same.

10. Keeping in view the above, as the order dated 17.10.2025 (Annexure P-3) passed by the Tribunal has not been proved to be perverse either on facts or on law, no ground is made out for any interference by this Court in the present case.

11. Accordingly, the writ petition is dismissed.



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12. Civil miscellaneous application pending if any, also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

May 27, 2026
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(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No