

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2389-2009 (O&M)

STATE OF HARYANA AND ORS.

..Appellants

Versus

KASHMIR LAL KHURANA

..Respondents

Reserved on: 22.04.2026

Pronounced on : 29.04.2026

Uploaded on : 01.05.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Harish Nain, AAG, Haryana.

Mr. Abhishek Sethi, Advocate
for respondent.

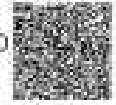
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SUDEEPTI SHARMA, J.

1. The present regular second appeal is preferred against judgment and decree dated 24.03.2009 passed by learned District Judge, Rohtak, whereby, appeal filed by the respondent against judgment and decree dated 02.06.2008 passed by learned Additional Civil Judge (Senior Division) Rohtak was allowed.

BRIEF FACTS OF THE CASE

2. Brief facts of the case as per the pleadings in the civil suit are that respondent joined as Medical Officer, HCMS-II on ad hoc basis on 11.01.1977 at ESI Dispensary, Charkhi Dadri, Bhiwani. Consequently on the recommendation of HPSC, he was appointed on regular basis as Medical

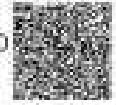


Officer, HCMS-II and as such he joined on the said post on 09.03.1983 without any break in service under employment of Government of Haryana. Due to domestic reasons, he resigned from his service on 31.12.1990 after giving one month's prior notice. At that time respondent was posted at CHC, Kahanaur, District Rohtak. His resignation was duly accepted vide letter dated 13.04.1991. His service benefits were not granted to him after submission of his resignation. He filed several representations to the appellants after his resignation but no response was given to him. He personally visited the office also. Thereafter, he filed civil suit for declaration to the effect that he is legally entitled to all retiral benefits including pension, gratuity etc. w.e.f. 31.12.1990. The civil suit filed by him was dismissed vide judgment and decree dated 02.06.2008 passed by learned Additional Civil Judge (Senior Division), Rohtak. Thereafter, he filed appeal, which was allowed vide judgment and decree dated 24.03.2009, passed by learned District Judge, Rohtak. Hence the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:-

3. Learned counsel for the appellants contends that learned First Appellate Court has misread and misinterpreted oral as well as documentary evidence placed on record and has arrived at finding, which is completely unsustainable in the eyes of law.

4. He further contends that learned First Appellate Court has totally ignored that respondent filed a civil suit, which was hopelessly time barred. Further that learned First Appellate Court by relying upon Rule 6.16(2) of Punjab Civil Services Rules, Volume II has allowed the appeal filed by the respondent without appreciating the fact that Rule 6.16 is not



applicable in case of the respondent since respondent did not retire but resigned from service. He therefore prays that the present appeal be allowed.

5. Per contra learned counsel for respondent contends that appeal filed by the respondent was rightly allowed by learned District Judge, Rohtak. He therefore prays that present appeal be dismissed.

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

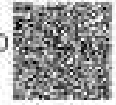
7. Admittedly respondent joined as Medical Officer HCMS-II on ad hoc basis on 11.01.1977 and later on, on recommendation of Haryana Public Civil Services Commission, his services were regularized as Medical Officer and he joined as such on 09.03.1983. He resigned from service on 31.12.1990 after giving one month's prior notice. His resignation was accepted vide letter dated 13.04.1991. Therefore, he was having approximately 14 years of service. After resignation, he filed civil suit in the year 2006 for retiral benefits. Before admitting the present regular second appeal, a Coordinate Bench of this Court framed the following substantial questions of law and operation of impugned judgment was stayed vide order dated 03.07.2009, which is reproduced as under:-

“Admitted to consider the following substantial questions of law:-

“i) Whether the respondent can be granted retiral benefits when in view of rule 4.19(a), the resignation from public service entails forfeiture of past service and no pension can be granted in these circumstances?

ii) Whether the respondent can be granted retiral benefits when the case of the appellant does not cover under rule 6.16 vol.II CSR?

iii) Whether the suit of the respondent is time barred?



Meanwhile, operation of the impugned judgment and decree shall remain stayed.”

8. Before proceeding further, it would be apposite to reproduce relevant provisions of Punjab Civil Services Rules, Volume II:-

“Rule 3.17A(d)

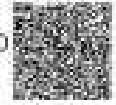
“3.17A(d). Resignation from the public service or dismissal or removal from it for misconduct, insolvency, inefficiency, not due to age, or failure to pass a prescribed examination will entail forfeiture of past service in terms of Rule 4.19(1) of the Punjab Civil Service Rules Volume II.”

Rule 4.19(a)

"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 by the Advisors constituted under the Haryana Civil Services (Safeguarding 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."

Rule 5.32

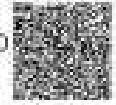
"5.32-A. The Rule for the grant of retiring pensions is as follows :

a) A Government employee is entitled, on his resignation being accepted, to a retiring pension after completing qualifying service of not less than 30 years, but a competent authority may permit the pension to be granted in Special cases where the qualifying service is not less than 25 years.

b) A retiring pension is also granted to a Government employee who is required by Government to retire after completing 25 years qualifying service or more and who has not attained the age of 55 years."

Rule 6.16(2)

"6.16(2) In the case of a Government employee retiring on or after the 1st April 1979, in accordance with the provisions of these Rules after completing qualifying service of not less than thirty-three years or more, the amount of superannuation, retiring, invalid and compassionate pensions shall be 50% of average emoluments as defined in Rule 6.19 -C of these Rules



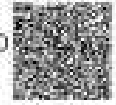
subject to a maximum of (Rs. 3000/-)(Substituted vide No. 1/2/1/CSR Vol.II/91 -Sr.AO(FD) dated 31.1.92) per mensem. However, in the case of a Government employee who at the time of retirement has rendered qualifying service of ten years or more but less than thirty three years, the amount of pension shall be such portion of the maximum admissible pension as such the qualifying service of thirty three years, subject to a maximum of (Rs. 375/-) (Substituted vide No. 1/2/1/CSR.Vol.II/91-Sr.A.O. (FD) Dated 31.1.92) per mensem...”

9. A bare reading of Rule 3.17A(d) as reproduced above shows that resignation from public service would entail forfeiture of past service in terms of Rule 4.19(1) of Punjab Civil Services Rules, Volume II. Therefore, Government servant, who resigns from service will forfeit his past service. In other words, the entire service rendered by an employee, who has sworn his relationship with his employer by virtue of his resignation stands completely forfeited. Therefore, he/she cannot claim pensionary benefits.

10. Rule 4.16(a) as referred to above reads that resignation, dismissal or removal from service would entail forfeiture of past service and no pension shall be granted.

11. Rule 6.16(2) as referred to above reads that Government employee retiring after completing qualifying service of not less than 33 years or more, meaning thereby it is applicable to the employee, who retires from service and is not applicable to the employees, who resigns from service.

12. Now coming to Rule 5.32(a), which specifically states that the person on his resignation being accepted, is entitled for pension after completing qualifying service of not less than 30 years, but a competent



authority may permit the pension to be granted in Special cases where the qualifying service is not less than 25 years.

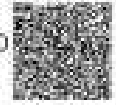
13. In the present case, respondent completed about 13-14 years of service, which is not even qualifying service for entitlement of pension.

14. Learned First Appellate Court has totally misread the Rules applicable in the case of respondent and has wrongly held respondent entitled to pension on his resignation.

15. Hon'ble Supreme Court in **Ghanshyam Dass Relhan Vs. State of Haryana and others, 2009 (14) SCC 506**, has held that Rule clearly provides that a Government employee is entitled to retiring pension on his resignation being accepted if he completes qualifying service of not less than 30 years.

16. The relevant paras of **Ghanshyam Dass Relhan's case (supra)** are reproduced as under:-

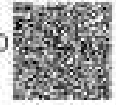
“16. In our view, Rule 4.19(a) has to be read and understood differently from what has been urged by Mr. Dholakia. The expression 'resignation from public service' will have to be read disjunctively from 'dismissal or removal from it'. The expression 'resignation from public service' will not be qualified by the subsequent references relating to anti-national activities. On the other hand, the expression 'dismissal or removal from it' will be qualified by the said expression which would in both cases entail forfeiture of past service and disqualification so far as payment of pension is concerned. In other words, read disjunctively, resignation simpliciter from public service would entail forfeiture of past service and no pension is to be granted in the aforesaid circumstances.



17. As far as Rule 4.19(b) is concerned it is quite clear that resignation to take up with proper permission another appointment, would have to be in a service, which would count towards pension in Government service. It means that the subsequent appointment must also be in public service and in such a case the resignation would not amount to resignation of public service. In such a case, continuity in public service would be accepted in computing the qualifying service of 30 years for grant of pension. It is a provision similar to Rule 4.19(b) which was relied upon by the Division Bench of the Calcutta High Court in deciding the case of Dr. Sajal Kanti Chakraborty (supra), and distinguishes the said case from the facts of this case.

18. As far as Rule 6.16(2) is concerned, in our view, the same cannot be divided into two separate compartments as has been suggested by Mr. Dholakia. The second part of the said Rule is a consequence of the first part, which deals with retirement upon superannuation and not resignation, as in the instant case. In order to be eligible for pension the Government employee at the time of superannuation would have to complete qualifying service of not less than 33 years or more. However, an exception has been made in the second part of the said Rule which also allows the benefit of pro- rata pension to employees who had rendered 10 years service or more. In our view, not having superannuated from Government service, the petitioner cannot come within the said category and as submitted by Mr. Patwalia, his case would instead be governed by Rule 5.32-A, which deals with resignation.

19. The said Rule clearly provides that a Government employee is entitled on his resignation being accepted to a retiring pension subject to his completing qualifying



service of not less than 30 years which in special cases could be reduced to 25 years. Since the petitioner has not completed the qualifying service of 30 years and since the service rendered by him with the Bank would not be counted towards Government service, the petitioner is not entitled to the benefit of pension under Rule 6.16(2) and the High Court has rightly decided the issue.”

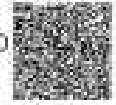
17. In RSA-13-2009, the following question of law was referred to Full Bench of this Court:-

“Whether a government employee on resignation forfeits his past service for purposes of pensionary benefits?”

18. This Court in RSA-13-2009, titled as State of Haryana and others Vs. Dr. (Mrs.) Sudha Seth, by relying upon the judgment passed by Hon’ble Supreme Court in **Ghanshyam Dass Relhan’s case (supra)**, has held as under:-

“We also consider it just and appropriate to deal, in the first (We instance, with Rule 6.16(2) of the Punjab Civil Service Rules, Volume II, Part 1 which is repeatedly the basis of a claim for pensionary benefits, at the hands of government employees, who having resigned from service on completion of qualifying service in excess of 10 years. Rule 6.16(2) aforementioned is being extracted hereunder:-

“6.16(2). In the case of a Government employee retiring on or after the 1st April, 1979, in accordance with the provisions of these Rules after completing qualifying service of not less than thirty-three years or more, the amount of superannuation, retiring, invalid and compassionate pensions shall be 50% of average emoluments as defined in Rule 6.19C of these Rules subject



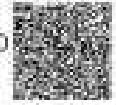
to a maximum of Rs.3,000/- per mensem. However, in the case of a Government employee who at the time of retirement has rendered qualifying service of ten years or more but less than thirty-three years, the amount of pension shall be such proportion of the maximum admissible pension as such the qualifying service of thirty-three years, subject to a minimum of Rs.375/- per mensem.”

Based on the aforesaid Rule, employees who have completed 10 years or more qualifying service, prior to severing their ties with their employer, by resigning from service, claim pensionary benefits.

In our considered view, the benefit of Rule 6.16(2) certainly cannot be available to an individual who had severed his relationship with his/her employer by way of resignation. The aforesaid Rule is applicable only to an individual who has retired from service. The benefit of Rule 6.16(2) aforementioned can, therefore, be availed of only by a person who retires on superannuation or invalid and compassionate grounds.

It is also necessary for us to make a reference to Rule 3.17A (d) of the Punjab Civil Service Rules, Volume II, Part I, which has been noticed in the reference order. The instant Rule has been the basis of denial of pensionary benefits to a government employee, who had resigned from service. The same is being extracted hereunder:

"3.17A (d). Resignation from the public service or dismissal or removal from it for misconduct, insolvency, inefficiency, not due to age, or failure to pass a prescribed



examination will entail forfeiture of past service in terms of Rule 4.19(1) of the Punjab Civil Service Rules Volume 11."

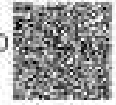
A perusal of the aforesaid Rule reveals, that a government servant, who resigns from service will forfeit his past service. In other words, the entire service rendered by an employee who has severed his relationship with his employer by virtue of his resignation, stands completely forfeited, and as such, cannot be made the basis of claiming pensionary benefits.

The aforesaid stance of the government has to be resolved, in view of the conclusion expressed by us hereinabove, on the basis of Rule 5.32A(a) (extracted above). In our considered view, the aforesaid Rule is not an absolute Rule, inasmuch as, Rule 5.32A (a), extracted hereinabove, is an exception to the aforesaid Rule. As such, a person who has qualifying service of a minimum of 30 years prior to tendering his resignation, will still be entitled to retiral benefits. The aforesaid retiral benefits at the discretion of the State government, can extend to an individual, who has 25 or more years of qualifying service. Rule 3.17A extracted above will, therefore, result in forfeiture of service (in a claim for pension) where the qualifying service rendered by a government employee is less than 25/30 years (as the case may be) as per Rule 5.32A (extracted above).

The reference extracted at the inception of this order is, accordingly, answered in the manner expressed above."

Decision

19. In view of the above discussion, since in the present case also the respondent did not fulfill minimum qualifying service of 30 years and



resigned after approximately 13-14 years of service. Therefore, as discussed above, he would not be entitled to pensionary benefits. The question of law framed in the present case is therefore answered in favour of the appellants and against the respondent.

20. Consequently, judgment and decree dated 24.03.2009 passed by learned District Judge, Rohtak is hereby set aside.

21. Accordingly, the present regular second appeal is **allowed**.

22. Decree sheet be prepared accordingly.

23. Pending miscellaneous applications, if any, are also disposed of.

29.04.2026

Ayub/Saahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*