



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

CWP-18724-2023

Sushil Kumar

.....Petitioner

VERSUS

State of Haryana and others

..Respondents

Reserved on: 10.03.2026
Pronounced on:06.04.2026
Uploaded on:06.04.2026

Whether only the operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Rajesh Sehgal, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Gaurav Jindal, Advocate for respondents No.2 and 3.

HARPREET SINGH BRAR, J.

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Mandamus and Certiorari, seeking quashing of the discharge order dated 30.08.2018 (Annexure P-7) and the consequential order dated 23.01.2019 (Annexure P-8), with a further direction to the respondents to grant the



petitioner all retirement benefits, including pension, gratuity, and provident fund with interest, treating his exit from service as a case of “Voluntary Retirement” after completion of 25 years of service.

BRIEF FACTS

2. The petitioner was initially appointed as a work-charge employee and his services were regularized as a Peon (Class-IV employee) w.e.f. 01.04.1993. The petitioner claims to have rendered total regular service of 25 years and 04 months from 01.04.1993 to 30.08.2018.

2.1 Vide application dated 11.06.2018 (Annexure P-6), the petitioner submitted a letter to the Commissioner, Municipal Corporation, Ambala. The relevant extract of the said application reads as under:

“Sir, It is requested that I, Sushil Kumar... working as permanent Peon... Due to my personal problem I am unable to perform my duty. Therefore, I am giving resign from my duty. You are requested that my resignation may be accepted... I shall be always thankful to you.”

2.2 Pursuant to this application, the respondent-authorities accepted the same and issued a discharge letter dated 30.08.2018 (Annexure P-7), relieving the petitioner from service. Subsequently, when the petitioner claimed pensionary benefits, the respondents denied the same, leading to the filing of the present writ petition.

CONTENTIONS

3. Learned counsel for the petitioner *inter alia* contends that the petitioner joined as a regular Peon w.e.f. 01.04.1993 and has rendered more



than 25 years and 04 months of qualifying service. He refers to Annexure P-6, the application dated 11.06.2018, and argues that although the petitioner is an illiterate Class-IV employee, his application was essentially for voluntary retirement, as he specifically requested for release of “whatever service benefits” are payable to him. Learned counsel further submits that the Government of Haryana had circulated a Voluntary Retirement Scheme vide No. 32/06/2018-4GS1, under which the petitioner, having completed 25 years of service, was fully entitled to claim pensionary benefits. Further the learned Counsel submits that, the respondents, as a model employer, ought to have treated the petitioner’s application as a case of voluntary retirement rather than resignation, more so when the petitioner had no intention to forfeit his past service. He places reliance on the judgment of the Hon’ble Supreme Court in *Asger Ibrahim Amin v. LIC, (2016) 13 SCC 797*, to contend that the Court must look beyond the nomenclature of the letter and examine the substance, and that a beneficial scheme like pension cannot be denied on hyper-technical grounds.

4. *Per contra*, learned counsel for the respondents submits that the petitioner’s own application dated 11.06.2018 (Annexure P-6) is unequivocally a letter of resignation, wherein the petitioner has clearly stated, “*I am giving resign from my duty*” and has requested acceptance of his “*resignation.*” There is no mention of any Voluntary Retirement Scheme in the said letter, nor has the petitioner ever applied for voluntary retirement under the Haryana Government’s scheme. Learned counsel further submits that under Rule 21(b) of the Haryana Civil Services (Pension) Rules, 2016,



(Rules of 2016) resignation from public service entails automatic forfeiture of past service for the purposes of pension, and therefore the petitioner is not entitled to any pensionary benefits. He places reliance on the judgment of the Hon'ble Supreme Court in *Reserve Bank of India v. Cecil Dennis Solomon, (2004) 9 SCC 461*, wherein the Hon'ble Apex Court has drawn a clear distinction between 'resignation' and 'voluntary retirement', holding that while both are voluntary acts, resignation results in forfeiture of retiral benefits whereas voluntary retirement does not. He further relies on the recent judgment of the Hon'ble Supreme Court in *Ashok Kumar Dabas v. Delhi Transport Corporation, 2025 INSC 1404*, wherein it was categorically held that an employee who resigns cannot claim pensionary benefits as per Rule 26 of the CCS Pension Rules, and that the past service stands forfeited upon resignation irrespective of the length of service. Accordingly, he prays that the present writ petition being devoid of merit deserves to be dismissed.

OBSERVATION & ANALYSIS

5. I have heard learned counsel for the parties and perused the record with utmost care.

6. Admittedly the Letter dated 11.06.2018 (Annexure P-6), submitted by the petitioner to Respondent Corporation has the subject "Regarding resign from duty" and further the body of the letter indeed conveys the request of the resignation being accepted. Following which the respondent Corporation vide letter dated 30.08.2018 (Annexure P-7), accepted the resignation.



7. The circumstances under which an employee's pension and death-cum-retirement gratuity shall be forfeited is stipulated in section 21 of the Rules of 2016 which is reproduced below for reference,

“21. Forfeiture of past service for pension.—

Save as otherwise provided, past service of a Government employee shall be forfeited towards pension and death-cum-retirement gratuity in the following circumstances:-

(a) an interruption in service caused by wilful absence from duty;

(b) resignation from public service; or

(c) dismissal or removal from service under the Haryana Civil Services (Punishment and Appeal) Rules, 2016”

8. A bare perusal of the above reproduced rules stipulates that upon resignation from public service the past service of a government employee shall be forfeited towards pension and death-cum-retirement gratuity.

9. While dealing with service jurisprudence, the Hon'ble Apex Court has consistently drawn a clear and demarcated line between the concepts of 'resignation' and 'voluntary retirement'.

10. A Two Judge Bench of the Hon'ble Supreme Court in ***Reserve Bank of India and others vs. Cecil Dennis Solomon and another, 2004(9) SCC 461***, speaking through Justice Arijit Pasayat observed that:

“In service jurisprudence, the expressions superannuation, voluntary retirement, compulsory retirement and resignation convey different connotations. Voluntary retirement and resignation involve voluntary acts on the part of the employee to leave service. Though both involve



voluntary acts, they operate differently. One of the basic distinctions is that in case of resignation it can be tendered at any time; but in the case of voluntary retirement, it can only be sought for after rendering prescribed period of qualifying service. Another fundamental distinction is that in case of the former, normally retrial benefits are denied but in case of the latter, same is not denied.” (Emphasis added)

11. This distinction was further fortified and applied by a Three-Judge Bench of the Hon’ble Supreme Court in ***Senior Divisional Manager, LIC vs. Shree Lal Meena, (2019) 4 SCC 479***, which while speaking through Justice Sanjay Kishan Kaul observed as under:

“19. What is most material is that the employee in this case had resigned. When the Pension Rules are applicable, and an employee resigns, the consequences are forfeiture of service, under Rule 23 of the Pension Rules. In our view, attempting to apply the Pension Rules to the respondent would be a self-defeating argument. As, suppose, the Pension Rules were applicable and the employee like the respondent was in service and sought to resign, the entire past service would be forfeited, and consequently, he would not qualify for pensionary benefits. To hold otherwise would imply that an employee resigning during the currency of the Rules would be deprived of pensionary benefits, while an employee who resigns when these Rules were not even in existence, would be given the benefit of these Rules.

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35. In view of what we have discussed aforesaid, all three aspects stated by us are relevant and disentitle the appellant to any relief. We have already explained the difference between resignation and voluntary retirement. Mere categorisation by the appellant himself of



his resignation as "premature retirement" is of no avail. The same principle discussed aforesaid, of forfeiture of service, would be applicable here and the appellant did not have the requisite age when he resigned even were the 1976 Scheme to be made applicable.”

11.1 The Hon’ble Court in *Shree Lal Meena (supra)*, while referring to the principle laid down in *Asger Ibrahim Amin (supra)* observed that

“25. There are some observations on the principles of public sectors being model employers and provisions of pension being beneficial legislations.¹² We may, however, note that as per what we have opined aforesaid, the issue cannot be dealt with on a charity principle. When the Legislature, in its wisdom, brings forth certain beneficial provisions in the form of Pension Regulations from a particular date and on particular terms and conditions, aspects which are excluded cannot be included in it by implication. The provisions will have to be read as they read unless there is some confusion or they are capable of another interpretation. We may also note that while framing such schemes, there is an important aspect of them being of a contributory nature and their financial implications. Such financial implications are both, for the contributors and for the State. Thus, it would be inadvisable to expand such beneficial schemes beyond their contours to extend them to employees for whom they were not meant for by the Legislature.”

(Emphasis added)

12. Further a two Judge Bench of the Hon’ble Supreme Court in *BSES Yamuna Power Ltd. vs. Ghanshyam Chand Sharma, (2020) 3 SCC 346*, while relying on the judgement rendered in *Shree Meena Lal (supra)*



and speaking through Dr. Justice Dhananjaya Y. Chandrachud observed that,

*“The view in Asger Ibrahim Amin was disapproved and the court held that the provisions providing for voluntary retirement would not apply retrospectively by implication. In this view, **where an employee has resigned from service, there arises no question of whether he has in fact 'voluntarily retired' or 'resigned'. The decision to resign is materially distinct from a decision to seek voluntary retirement. The decision to resign results in the legal consequences that flow from a resignation under the applicable provisions. These consequences are distinct from the consequences flowing from voluntary retirement and the two may not be substituted for each other based on the length of an employee's tenure.**”*

(Emphasis added)

13. In service jurisprudence, resignation and voluntary retirement are distinct legal concepts carrying fundamentally different consequences. While both involve a voluntary decision by an employee to exit service, voluntary retirement is governed by statutory conditions, typically requiring the completion of a prescribed period of qualifying service and entitling the employee to retiral benefits. In contrast, resignation can be tendered at any stage of service and ordinarily results in forfeiture of past service, thereby disentitling the employee from pensionary benefits unless specifically protected by applicable rules. The legal consequences flowing from resignation and voluntary retirement are not interchangeable, and one cannot be treated as the other merely on the basis of length of service or nomenclature. Further, beneficial pension schemes must be applied strictly



in accordance with their terms, and cannot be expanded by implication to include categories of employees, such as those who have resigned, who are expressly or implicitly excluded, particularly in view of their financial and contributory implications. Thus, when an employee voluntarily resigns from service, he submits himself to the legal consequences that flow from a resignation, and his past service stands forfeited for the purposes of pension, regardless of how many years he has served.

14. The petitioner's fate is sealed by his own document, Annexure P-6. The language of the letter is unambiguous. It does not use the terminology of the Voluntary Retirement Scheme, nor does it request permission for Voluntary retirement under the Pension Rules. It explicitly states, "I am giving resign from my duty" and requests acceptance of his "resignation". The petitioner cannot be permitted to take a somersault and claim that his resignation was, in fact, a voluntary retirement merely because he has now realized the financial consequences of his own act.

15. The language of Rule 21 of the Rules of 2016 is unambiguous and mandates the forfeiture of pension and death-cum-retirement gratuity upon resignation. It admits no exception for the present case. Thus, the statutory stipulation cannot be overlooked merely because the petitioner has claimed ignorance owing to illiteracy. If the petitioner intended to seek Voluntary Retirement, he ought to have applied under the specific scheme in existence.



CONCLUSION

16. Consequently, this Court is constrained to hold that the action of the respondents in treating the petitioner's application as a resignation and denying him pensionary benefits is neither arbitrary nor illegal. The impugned orders dated 30.08.2018 (Annexure P-7) and 23.01.2019 (Annexure P-8) do not suffer from any infirmity. The findings of fact recorded by the respondents are based on clear evidence (Annexure P-6) and are in consonance with Rule 21(b) of the 2016 Pension Rules as well as the binding precedents of the Hon'ble Supreme Court.

17. In view of the discussion above, this court finds there is no merit in the present writ petition. Accordingly the present writ petition is dismissed with no order as to costs.

18. Pending miscellaneous application(s), if any shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

06.04.2026

Puneet Chawla

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No