



RSA-4848-2011 (O&M)

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

RSA-4848-2011 (O&M)

Reserved on : 15.01.2026

Pronounced on : 19.02.2026

Uploaded on : 20.02.2026

Secretary to Government of Haryana and anotherAppellants

Vs.

Balwinder Kaur and anotherRespondents

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,
for the appellants.

Mr. Arun Dosanj, Advocate,
for respondent No.1.

SUDEEPTI SHARMA J.

1. The present Regular Second Appeal is preferred against the judgment and decree dated 09.05.2008 passed by learned Additional Civil Judge (Senior Division), Panchkula, whereby, the civil suit filed by the respondent was decreed in her favour and the judgment and decree dated 23.07.2009 passed by learned Additional District Judge, Panchkula, whereby the appeal filed by the appellants against the judgment and decree dated 09.05.2008, was dismissed.

BRIEF FACTS

2. Brief facts of the case are that after completing Staff Nurse course for three years from the Chief Medical Officer, Karnal, the

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respondent-Balwinder Kaur was appointed as Staff Nurse w.e.f. 07.07.1971 at Karnal. She joined service on the same date. She was selected as Staff Nurse by the Subordinate Services Selection Board, Haryana and joined in Civil Hospital, Karnal in February, 1973. As per condition No.7 of the letter dated 7/8.02.1973, the services of the respondent were governed by the provisions of Punjab Civil Services Rules and relevant Subordinate Services (Recruitment and Conditions of Service) Rules. She was sent on deputation by the Director General, Health Services, Haryana, to the Director of Health Services, Chandigarh Administration, General Hospital, Sector 16, Chandigarh, in the year 1976 and she served as Staff Nurse in the General Hospital, Sector 16, Chandigarh, on deputation upto 13.03.1984. Due to unavoidable family circumstances, the respondent had resigned from service and her resignation was accepted by the Director General, Health Services, Haryana, on 20.03.1984 w.e.f 14.03.1984 while she was still posted at General Hospital, Sector 16, Chandigarh. It is stated in the civil suit that respondent was employee of the Director General, Health Services, Haryana, w.e.f 07.07.1971 to 13.03.1984 i.e. for 13 years on regular basis and therefore, she became eligible for all retiral benefits, such as monthly pension, D.C.R.G. General Provident Fund, leave encashment etc. as per Haryana Subordinate Civil Services Rules, but the same were not granted to the respondent. She sent various representations but did not get any response. She filed Civil Suit for all pensionary benefits and other benefits under the Haryana Subordinate Civil Service Rules along with other



consequential reliefs. The Civil Suit filed by her was decreed in her favour by the Civil Judge (Senior Division), Panchkula, vide its judgment and decree dated 09.05.2008. The appeal filed by the appellants against the same was dismissed by learned Additional District Judge, Panchkula, vide its judgment and decree dated 23.07.2009. Hence, the present regular second appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. Learned counsel for the appellants contends that both the Courts failed to appreciate the Rules applicable in the case of the respondent. He further contends that as per Rule 3.17 A (d) and Rule 4.19 (a) of the Punjab Civil Services Rules Volume II as applicable to the State of Haryana, resignation entails forfeiture of the past service for pension purpose. He further contends that both the Courts wrongly applied Rule 6.16(2), which relates to superannuation (retirement) whereas, respondent did not retire and she resigned, which is a voluntary act. Further that respondent resigned in the year 1984 and filed Civil Suit in the year 2006 i.e. after a delay of 22 years, therefore, Civil Suit is hopelessly time barred. Further that amount of interest granted by both the Courts to the tune of 9% per annum is on the higher side, whereas, as per Section 34 of the Code of Civil Procedure, it should not exceed 6% per annum. In support of his contentions, he relies upon judgment passed by Hon'ble the Supreme Court in **Ashok Kumar Dabas Vs. Delhi Transport Corporation, 2025 INSC 1404**. He, therefore, prays that the present appeal be allowed.



4. *Per contra*, learned counsel for the respondent contends that both the Courts have rightly decreed the Civil Suit filed by the respondent in her favour and dismissed the appeal filed by the appellants. Further that both the Courts have rightly held that respondent has completed 12 years and 08 years of qualifying service and under Rule 6.12(1) of the Punjab Civil Services Rules Volume II, an employee is entitled to pension after completing a qualifying service of 10 years. He further contends that the Civil Suit was not time barred since claim of pension is recurring cause of action, which arises every month. Further that appellants are wrongly relying upon Rule 4.19 (a) to claim that resignation forfeits past service, whereas, both the Courts have correctly held that since respondent has already achieved 10 years threshold for pension eligibility under Rule 6.12 before resigning, therefore, she cannot be deprived of her earned benefits. In support of his contentions, he relies upon judgment passed by this Court in **Onkar Singh Vs. The Punjab State through Collector, Gurdaspur and another, 2003(4) S.C.T. 55, Jagdish Mitter Vs. State of Punjab, 1998(4) S.C.T. 157 and Haryana Vidyut Prasaran Nigam Limited (formerly Haryana State Electricity Board) Vs. Saroj Bakshi and others, 2016(1) S.C.T. 584**. Therefore, he prays that the present appeal be dismissed.

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

6. Admittedly, respondent started working with the Director General, Health Services, Haryana, w.e.f. July 1971. Regular appointment



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letter was issued to the respondent on 07.02.1973. Vide letter dated 22.02.1984 (Ex.DW2/H), respondent was directed to join her duty at General Hospital, Bhiwani, within four days, failing which, she was warned that strict disciplinary action would be taken against her. She applied for leave in the year 1983 but the same was not accepted and she was directed to apply through Civil Surgeon, Bhiwani, as she was posted to General Hospital, Bhiwani. She did not join her duty at Bhiwani and there is nothing on record to show that the period when she had applied for leave and that period was considered as period of absence or any disciplinary action was taken against her. She was in continuous service from July 1971 till the date of her resignation in the year 1984. Learned trial Court by relying upon Rule 6.12(1) of the Punjab Civil Services Rules Volume II, decreed the Civil Suit filed by her and held her entitled to pension and other retiral benefits in accordance with rules and also the arrears of pension along with interest @ 9% per annum.

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

“Rule 3.17 A of Punjab Civil Services Rules Volume II :-

3.17-A. (a) All service interrupted or continuous followed by confirmation shall be treated as qualifying service; the period of break shall be omitted while working out aggregate service.

(b) Extraordinary leave counted towards increments under rule 4.9 (b) (ii) of Punjab Civil Services Rules, Volume-I, Part-I, will be accounted towards service qualifying for pension.



(c) Periods of suspension, dismissal, removal, compulsory retirement followed by reinstatement will count for pension to the extent permissible under rule 4.17 of Punjab Civil Services Rules Volume-II read with rule 7.3 of the Punjab Civil Services Rules, Volume-I, Part-I.

(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 (a) of Punjab Civil Service Rules Volume-II.

Rule 4.19 (a) of Punjab Civil Services Rules Volume II :-

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 case 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 of the Advisors constituted under the Haryana Civil Services (Safe-guarding of National Security) Rules, 1971.

Rule 6.16(2) of Punjab Civil Services Rules Volume II :-

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.3,800 per mensem. However, in the case of 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 the qualifying service rendered by him bears to the maximum qualifying service of thirty-three years, subject to a minimum of Rs.375 per mensem (A few illustrations are given in Annexure to this Chapter.)

8. A perusal of Rule 6.16(2) of Punjab Civil Services Rules Volume II as reproduced above shows that it is applicable to the employees, who retired from service, whereas, the respondent in the present case gave her resignation, which was duly accepted by the appellants.

9. A conjoint reading of Rule 3.17 A (d) and Rule 4.19 (a) of Punjab Civil Services Rules Volume II as reproduced above shows that resignation from public service, dismissal, removal would entail forfeiture of past service and no pension shall be granted in such circumstances.

10. Therefore, both the Courts totally ignored the rules applicable in the present case.

11. Now coming to the judgment referred to by learned counsel for the respondent. The facts mentioned in the judgments are distinguishable, since in the present case, the respondent resigned from service and her resignation was accepted.



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12. So far as the judgment referred to by learned counsel for the appellants is concerned, Hon'ble the Supreme Court in **Ashok Kumar Dabas's case (supra)** held that resignation entails forfeiture of past service.

13. In view of the above discussion and law laid down by Hon'ble the Supreme Court, the judgment and decree dated 09.05.2008 passed by learned Additional Civil Judge (Senior Division), Panchkula, and the judgment and decree dated 23.07.2009 passed by learned Additional District Judge, Panchkula, are hereby set aside. Consequently, the present regular second appeal is **allowed**.

14. Parties are left to bear their own costs.

15. Decree sheet be drawn.

16. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

19.02.2026

Virender

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No