



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

**CWP No. 8870-2025
Date of Decision: 07.08.2025**

Ravi Kumar

....Petitioner

vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ankur Sidhar, Advocate
for the petitioner

Ms. Rajni Gupta, Addl. A.G., Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 21.02.2025 (Annexure P-6) whereby his application to consider his resignation as Technical Resignation has been declined.

2. The petitioner joined Haryana Police Force as Constable on 27.06.2017. He was willing to appear in Common Eligibility Test (for short "CET") conducted by Haryana Staff Selection Commission for various posts in different departments. He submitted application dated 02.07.2024 to respondent disclosing that he wants to take examination of CET Grade 'C' 2024, thus, he may be issued experience certificate as per proforma so that he may submit his application form on time. The petitioner submitted application along with experience certificate on 06.07.2024. He came to be



selected as Clerk in Health Department. He was issued appointment letter dated 20.10.2024. He submitted resignation dated 29.10.2024 to his parent department. His resignation was accepted, however, it was not treated as Technical Resignation. He submitted representation requesting the respondent to treat his resignation as Technical Resignation. The respondent vide impugned order dated 21.02.2025 has rejected his request to consider his resignation as Technical Resignation.

3. Mr. Ankur Sidhar, Advocate submits that petitioner prior to submitting application form for CET duly informed his parent department. He sought experience certificate. He was issued experience certificate and thereafter he filed application form. The respondent has accepted Technical Resignation of similarly situated employees. The denial of benefit of Technical Resignation would wipe out his eight years' service with parent department. It could cause irreparable loss to him.

4. *Per contra*, Ms. Rajni Gupta, Addl. A.G.Haryana submits that petitioner prior to filing application form for CET-2024 requested respondent to issue experience certificate. He did not seek approval which he sought in respect of Combined Administrative Services Examination-2023. The act of petitioner indicates that he was aware of dichotomy between seeking permission to file application form and experience certificate for filing application form. As per Rule 16 of Haryana Civil Services (Pension) Rules, 2016 (for short '2016 Rules'), Technical Resignation is possible if application for subsequent appointment is submitted through proper channel.



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

6. The respondent in order to deny benefit of Technical Resignation is relying upon Rule 16 of 2016 Rules. The said Rule is reproduced as below:-

"Resignation from the post held before joining the new/subsequent appointment from one department to another or from any other Government to Haryana Government shall be treated as technical resignation; provided the application for the new/subsequent appointment has been submitted through proper channel or at the time when the concerned Government employee was not in service in any department/organization under any Government."

7. As per aforesaid Rule, benefit of Technical Resignation is available if application for subsequent appointment is submitted through proper channel. The expression "proper channel" has not been defined in the Rules. The State Government vide instructions dated 08.03.2018 has clarified that in case of recruitment relating to State of Haryana, the employees are not required to get 'No Objection Certificate' if they have not executed a bond with State Government. In case bond has been executed, 'No Objection Certificate' of Head of Department shall be required. The instructions dated 08.03.2018 are reproduced as below:-

"Subject:- Submission of application for Government jobs by the employees.

Sir/Madam,

I am directed to invite your attention to the Government instructions issued vide circular letter No.



12/39/90-2GSI, dated 1.3.1990 and No. 12/54/98-2GSI, dated 2.3.2000 vide which guidelines for forwarding application of Government employees seeking employment through HPSC/HSSC were specified. Generally inordinate delay occurs in dealing with the applications of in-service candidates working in Government Departments seeking appointment to some other posts advertised by the Haryana Public Service Commission/Haryana Staff Selection Commission which results in harming the interests of such candidates.

Now, the State Government has considered the matter and it has been decided that the competent authority may forward the application of such employees to the recruiting agencies of the State after complying with the following parameters:

1. In case of recruitment relating to State of Haryana:

- a. Employees who have not executed any Bond with the State Government may be allowed to forward their application to State Recruitment Bodies without need of NOC from the department. In case of employees who have executed Bond with State Government (Viz. doctors) the NOC of HOD shall however be still required.*
- b. Recruitment bodies shall seek self-declaration of Government employee to the effect that the employee is not facing any disciplinary proceedings.*

2. In case of recruitments related to Union Government or other States:

It may be a requirement of those recruiting entities that the application should be submitted through proper channel and



therefore the earlier dispensation as specified in instructions issued vide letter No. 12/39/90-2GSI, dated 1.3.1990 and vide letter No. 12/54/98-2GSI, dated 2.3.2000 shall prevail, in so far as recruitment by other Governments is concerned.”

[Emphasis supplied]

8. The aforesaid Instructions have further been clarified by Director General of Police, Haryana vide Memo dated 17.09.2024. It has been clarified that for seeking employment within the Haryana State Government, there is no need to forward application to recruiting agency. The clarification dated 17.09.2024 reads as:-

“No. 11678-748/E(II)-3 dated Panchkula, the 17/09/2024

Subject: Compliance of Chief Secretary Instruction dated 08.03.2018 regarding submission of application for Government jobs by the employees.

Memo.

Please refer to the subject noted above.

2 This communication is to reiterate the instructions issued vide Chief Secretary, Haryana letter No. 12/01/2018-2GS-1 dated 08.03.2018 regarding submission of application for Government jobs by employees.

3. It is being noticed that despite clear instructions, certain police units are still not adhering these instructions.

4. It is hereby clarified again that applications of employees seeking recruitment within the Haryana



State Government do not require forwarding to recruiting agency. However, for applications pertaining to recruitment in the Union Government, it is mandatory for all police units to forward such application at their own level without any delay under intimation to this office”.

[Emphasis supplied]

9. From the perusal of above-quoted instructions and clarification, it is evident that there is no need to apply, for subsequent employment within State, through parent department. The applicant may directly apply to the recruitment agency. There is no need to seek ‘No Objection Certificate’.

10. A Co-ordinate Bench of this Court in “***Dr. Latika Sharma vs. The Panjab University and others’ (CWP No. 8417 of 2005, decided on 17.09.2014)*** has categorically dealt with question of “applied through proper channel”. The Court considering object of applying through proper channel has held that benefit of past service cannot be denied if the candidate has directly applied, however, submitted relieving order. The relevant extracts of the judgment are:

“The fourth alternative argument that the petitioner has not pleaded that she had “applied through proper channel” at the time of her selection and appointment to the present University, and thus does not fulfill one of the requirements of Clause/para 8.3.0 (reproduced in para 9 here above) of the notification dated 24.12.1998 (Annexure P-8), therefore, not entitled to counting of her past service for placement in the Senior Scale/Grade, also cannot be accepted. It is not the case of the Respondent-University that the petitioner did not fulfill the requirement, if any, of “applying through proper



channel”. The said term has not been statutorily or otherwise defined anywhere, however, in common parlance it is well understood to mean to apply through a hierarchical channel, so as to protect the interest of the previous Institution as also serve the interest of the applicant as well as the succeeding Institution. The previous Institution gets prior knowledge of the applicant employee seeking employment elsewhere, as also an opportunity to express its opinion on the employee, which may benefit the succeeding Institution and, perhaps, the employee. The fulfillment of the said condition in the normal course of events is directory and not mandatory in nature. The fact that the petitioner had submitted her “relieving order” from her previous college, in terms of her appointment letter, before permitting to join the respondent-University indicates that there was nothing due or against the petitioner, and the respondent-University having accepted the same would, in the opinion of this Court, give rise to an inevitable inference that there is substantial compliance of the said condition. Thus the argument is rejected.”

11. In the case in hand, the applicant prior to filing application for examination of CET Grade ‘C’-2024 duly informed his parent department. He expressly pointed out that he wants to take examination of CET Grade ‘C’-2024. He requested to issue experience certificate under prescribed proforma. The respondent issued experience certificate. The respondent is claiming that petitioner in the letter has not requested for permission to appear in CET-2024 whereas he has sought experience certificate. The respondent is further claiming that petitioner in respect of another examination specifically mentioned that he may be allowed to file the form.



The respondent with respect to both the applications issued identical worded certificates. There is not even iota of difference between both the certificates. It shows that there could be inadvertent mistake on the part of petitioner in opting language. The letter may not be happily worded but it clearly shows that his intention was to inform the department and get permission. The respondent by issuing experience certificate conceded that he may apply for CET-2024. Had the respondent any objection, it must have pointed at that stage. The respondent is not disputing that if petitioner's resignation is treated as Technical Resignation, his past service would be counted in the subsequent employment. Thus, denial of petitioner's request to treat his resignation as technical would substantially affect his career. The service rules have created substantive benefit of counting past service which affects salary and pension with subsequent employer. The substantive benefit cannot be denied on technical or procedural lapses especially when there is substantive compliance.

12. In the wake of above discussion and findings, the instant petition deserves to be allowed and accordingly hereby allowed. The impugned order dated 21.02.2025 is hereby set aside. Let the needful be done within three months.

(JAGMOHAN BANSAL)
JUDGE

07.08.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	