



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

**CWP No.3621 of 2016
Reserved on: 04.11.2024
Pronounced on: 21.02.2025**

Harcharan Singh Paul **....Petitioner**

Versus

Union of India and others **....Respondents**

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. R.S. Bajaj, Advocate
for the petitioner.

Mr. Arvind Seth, Advocate
for the respondents.

VIKRAM AGGARWAL J.

1. The petitioner prays for the issuance of a writ of certiorari quashing the order dated 04.11.2015 passed by the Central Administrative Tribunal, (hereinafter referred to as the Tribunal) whereby the claim of the petitioner for quashing of the orders dated 19.10.2012 and 10.01.2013 was rejected.

2. The facts, as averred in the writ petition are that the petitioner joined the Military Engineering Service (MES) on 10.08.1971 and served upto 18.12.1981, thereby rendering service of 10 years and 04 months. The petitioner claims that he is, therefore, entitled for pension for the service rendered with the respondents in MES.

In order to substantiate his claim, the petitioner relied upon Rules 26 (2), 26 (7) and Rule 37 of the Central Civil Services (Pension)

Rules, 1972 (hereinafter referred to as the 1972 Rules), which read as under:

“Rule 26: Forfeiture of service on resignation -

(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.

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(7) A resignation submitted for the purpose of Rule 37 shall not entail forfeiture of past service under the Government.”

“Rule 37: Pension on absorption in or under a corporation, company or body -

(1) A Government servant who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or a State Government or in or under a Body controlled or financed by the Central Government or a State Government, shall be deemed to have retired from service from the date of such absorption and subject to sub-rule (3) he shall be eligible to receive retirement benefits if any, from such date as may be determined, in accordance with the orders of the Central Government applicable to him].

EXPLANATION. - Date of absorption shall be -

(i)	<i>in case a Government employee joins a corporation or company or body on immediate absorption basis, the date on which he actually joins that corporation or company or body;</i>
(ii)	<i>in case a Government employee initially joins a corporation or company or body on foreign service terms by retaining a lien under the Government, the date from which his unqualified resignation is accepted by the Government.</i>

(2) The provisions of sub-rule (1) shall also apply to Central Government servants who are permitted to be absorbed in joint sector undertakings, wholly under the joint control of Central Government and State Governments/Union Territory Administrations or under the joint control of two or more State Governments/Union Territory Administrations.

(3) Where there is a pension scheme in a body controlled or financed by the Central Government in which a Government servant is absorbed, he shall be entitled to exercise option either to count the service rendered under the Central Government in that body for pension or to receive [deleted]4 retirement benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

EXPLANATION. - Body means autonomous body or statutory body.”

3. Learned counsel for the petitioner submitted that resignation from service would not entail forfeiture of past service if the resignation had been submitted with proper permission to take up another appointment. It was submitted that the petitioner had applied for the post of Small Scale Industries Officer in the Punjab National Bank through proper channel and the no objection certificate was duly issued by the respondents on 21.05.1981 (Annexure P-3). It was contended that the petitioner submitted his resignation from service vide communication dated 03.12.1981 (Annexure P-4), which was accepted on 11.12.1981 (Annexure P-5). It was, therefore, submitted that the writ petition deserves to be allowed as prayed for.

4. On the other hand, learned counsel for the respondents have vehemently argued that the claim of the petitioner had rightly been rejected vide orders dated 09.10.2012 and 10.01.2013 as he had himself

resigned from service without completion of the age of superannuation i.e. 60 years. It was further argued that even as per Rule 26(1) and Rule 26(2) of the 1972 Rules, resignation from service entails forfeiture of past service. It was submitted that under the circumstances, there is no merit in the writ petition and no illegality in the impugned order.

5. We have considered the arguments addressed by the learned counsel parties. Undoubtedly on 03.12.1981 (Annexure P-4), the petitioner submitted "Resignation from Service" for the purpose of submission of his joining at his new posting as Small Scale Industries Officer in the Punjab National Bank which is an autonomous Public Sector Undertaking and is not the Central Government. The 'Resignation' from service of the petitioner was accepted by the respondents vide letter dated 11.12.1981 stating "Acceptance of Resignation".

6. Rule 26(1) of the 1972 Rules mandates that resignation from service entails forfeiture of past service and Rule 26(2) thereof mandates that resignation from service shall not entail forfeiture of past service if it has been submitted to take up with proper permission, another appointment whether temporary or permanent "under the Government" where service qualifies.

7. Thus, only that resignation shall not entail forfeiture of past service, if the same has been submitted with proper permission to take up appointment "under the Government". The word 'Government' has been defined in Rule 3(1)(i), which mandates that Government means the 'Central Government'. The petitioner was appointed as Small Scale Industries Officer in the Punjab National Bank, which is an autonomous Public Sector Undertaking and the same is not a Central Government as

defined in Rule 3(1)(i). Thus, the petitioner is not entitled for any benefit as mentioned in Rule 26(2) of the 1972 Rules for the purpose of pension of the service rendered with the respondents. There is no challenge to Rule 26(2) of the 1972 Rules by the petitioner which entails forfeiture of past service upon joining new appointment outside the Central Government.

8. Further learned counsel placed reliance upon Rule 26(7) and Rule 37 (1) of the 1972 Rules. We have gone through the said Rules and are of the considered view that both the rules are applicable in case of absorption in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or a State Government or in or under a Board Controlled or financed by the Central Government or a State Government. In the instant case, the petitioner was appointed as a Small Scale Industries Officer in the Punjab National Bank in pursuance to the advertisement and going through the selection process conducted by the Punjab National Bank and this is not a case of absorption in the Punjab National Bank. Therefore, the Rules (supra) relied upon by the petitioner has no application in the instant case.

9. The specific case of the petitioner before the authority was of resignation from service as is evident from his application of resignation (supra) and the acceptance letter (supra). Rule 26(1) of the 1972 came up for consideration before the Hon'ble Supreme Court of India in ***"BSES Yamuna Power Ltd. Versus Sh.Ghanshyam Chand Sharma and another"*** (2020) 3 SCC 346 wherein it was held that once an employee submitted resignation from service then even if he had served for 20 years, as per Rule 26 of the 1972 Rules his past service

would stand forfeited and an employee would not be entitled for any pensionary benefits.

10. In view of the above, the impugned order dated 04.11.2015 passed by the Tribunal calls for no interference.

The writ petition is therefore devoid of merit and is accordingly dismissed.

All the pending misc. application(s), if any, also stand disposed off.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 21.02.2025.

Rekha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No