



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

(108)

CWP No. 4173 of 2025

Date of Decision : 04.03.2025

Ravinder Singh

...Petitioner

Versus

The Punjab and Haryana High Court, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Bikramjit S. Patwalia, Advocate and
Mr. Gaurav Jagota, Advocate for the petitioner.

Mr. Gaurav Chopra, Senior Advocate with
Mr. Shobit Phutela, Advocate (joined through V.C.) and
Ms. Sanya Kapoor, Advocate for the respondent-High Court.

Mr. T.P.S. Chawla, Senior Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that the petitioner was initially appointed as a Clerk in the Session Division, Bathinda in pursuance of Advertisement dated 24.09.2016 (Annexure P-2) issued by Punjab and Haryana High Court but before joining the Session Division as a Clerk, the petitioner had already applied for the post of Clerk in pursuance to the Advertisement dated 01.09.2016 (Annexure P-1) issued by the State of Punjab. That the petitioner was found meritorious and got selected for appointment to post of Clerk with the State Government, which is clear from appointment order dated 30.07.2019 (Annexure P-8). Consequently, the petitioner rendered his technical resignation which was



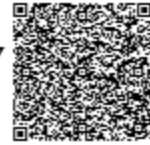
rejected by learned District & Sessions Judge, Bathinda vide order dated 07.08.2019 (Annexure P-12). Moreover, a condition was imposed upon the petitioner that his resignation will only be accepted only if he deposits one month salary. Hence, it is the prayer of the petitioner that the order dated 07.08.2019 (Annexure P-12) may kindly be set-aside.

2. Learned counsel for the petitioner submits that not only the petitioner but other similarly situated employees who were also working as a Clerk in the various Sessions Divisions, had also applied for the said post advertised by State of Punjab and competed for the same post. Ultimately, after selection, the petitioner and other similarly situated Clerks were asked to submit the normal resignation rather than accepting the technical resignation by virtue of which the petitioner could get the benefit of fixation of pay scale by taking into consideration the service which the petitioner and other similarly situated candidates had rendered with the Session Division, Bathinda while working as a Clerk.

3. Learned counsel submits that the similar plea taken by the similarly situated employees has already been allowed by this Court while passing order in CWP No. 35184 of 2019 titled as ***Ram Mehar Singh and another Vs. State of Punjab and others***, decided on 21.01.2025 and other connected cases and the normal resignation has been directed to be treated as a technical resignation, which benefit should also be extended to the petitioner as well.

4. Notice of motion.

5. Mr. Gaurav Chopra, Senior Advocate with Mr. Shobit Phutela, Advocate (appears through Video Conferencing) and Ms. Sanya Kapoor,



Advocate accept notice on behalf of the respondent-High Court and Mr. T.P.S. Chawla, Senior Deputy Advocate General, Punjab, who is present in Court, accepts notice on behalf of the State of Punjab.

6. Learned senior counsel for the respondent-High Court submits that though the claim of the petitioner is identical to the one raised in ***Ram Mehar Singh and another (supra)***, but submits that as the petitioner has filed the writ petition after a period of five years, the same should be dismissed on the ground of delay.

7. Learned counsel appearing on behalf of the petitioner submits that the similar argument raised in the case of the similarly situated employee has already been dealt with by this Court and the objection qua the delay in approaching the Court has not been accepted.

8. I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. The question of law which is being raised in the present petition, has already been decided by this Court in ***Ram Mehar Singh and another (supra)***, which fact goes undisputed. The only objection of the respondent-High Court is that there is a delay of 05 years in challenging the impugned order rejecting the claim of the petitioner so as to treat the resignation as a technical resignation instead of normal resignation. It may be noticed that the respondent-High Court will be caused no prejudice in case the normal resignation is to be treated as a technical resignation. There is no financial liability which will be imposed upon the High Court and, therefore, the question of law qua the delay in filing the present petition being raised by the High Court, cannot come in the way of the petitioner so as to deny him the



benefit, which has already been granted in the case of the other similarly situated employees.

10. Further, in case the objection of the High Court is accepted qua the delay and the writ petition is to be dismissed, it will create an anomaly for the reason that anyone who was lower in merit than the petitioner and has also joined the State of Punjab and has been granted the benefit as per ***Ram Mehar Singh and another (supra)***, that employee will be getting higher salary despite the fact that the petitioner was higher in merit when appointed as Clerk in the State of Punjab, hence, in order to avoid any further litigation especially when the High Court is not suffering from any prejudice, either administratively or even financially, the said argument being raised by the High Court cannot be accepted, especially when, the State of Punjab has on record as noted while deciding ***Ram Mehar Singh and another (supra)***, has stated that in case the technical resignation is accepted by the High Court, the consequential benefits will be given by the State of Punjab.

11. Keeping in view the totality of the circumstances, the present petition is also disposed of in terms of ***Ram Mehar Singh and another (supra)***.

12. Learned counsel for the respondent-High Court submits that once the normal resignation was accepted vide order dated 08.08.2019 (Annexure P-13) and one month salary was deposited by the petitioner in accordance with the impugned order dated 07.08.2019 (Annexure P-12), the petitioner is, therefore, stopped from challenging the said acceptance of the resignation so as to treat the same as a technical resignation.



13. It may be noticed that any right which accrues to the petitioner under law, cannot be taken away merely because of the direction given by the District & Sessions Judge, Bhatinda that one month salary has to be deposited in order to get his resignation accepted. Similar jurisprudence was adopted by this Court in ***Ram Mehar Singh and another (supra)*** where the employees were found entitled for the grant of technical resignation in order for them to avail the benefit of continuity in service and benefit of protection of pay, which benefit is nothing else but accrual on rights of the employee qua the service they rendered. Therefore, the mere fact that the petitioner deposited one month salary so that he could resign and join the post of Clerk in the State of Punjab within the time frame granted, cannot be treated as an estoppel so as to deny him the benefit of fixed pay once the same benefit has been given to the similarly situated employees.

14. Petition is allowed in above terms.

March 04, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No