



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

\*\*\*\*

**CWP-7359-2024**

**Date of Decision: 13.08.2025**

RAHUL KUMAR

...PETITIONER

Vs.

STATE OF HARYANA AND ORS.

...RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present:- Mr. Brijesh Kumar, Advocate  
for the petitioner(s).

Mr. R. D. Sharma, Sr. DAG, Haryana

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**VINOD S. BHARDWAJ, J. (ORAL)**

1. Involving an issue as to whether an employee, who has cleared his probation successfully and whose's resignation has been accepted by the respondent(s) by keeping his lien against the said post, could be declined repatriation solely on the ground that a formal order of confirmation had not been passed, the instant writ petition has been filed. Challenge is to the order dated 05.01.2024 whereby the respondent(s) have refused to recognize the lien of the petitioner on the ground that it is not as per Rule 8(11) and 8(50) of Haryana Civil Services (General) Rules, 2016.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner joined with the respondent(s) No.3-Election Department, Haryana as the Lower Division Clerk (*for short*, 'LDC') on 19.03.2018 and his services were governed by the Election Department, Haryana, Group C, Service Rules, 1999. He further contends that one of



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the conditions in the letter of appointment was that the petitioner was on probation for a period of two years and was also required to complete the SETC Test. The petitioner successfully cleared the SETC Test and his probation was cleared by the respondent(s) *vide* order dated 19.03.2020. The petitioner, in the meanwhile had also submitted an application for SSC (CHSL) which was cleared by him and he also got selected as a Junior Secretariat Assistant. Since the petitioner was offered appointment and directed by the said respondents to take charge as Junior Secretariat Assistant, hence, the petitioner submitted a technical resignation from the post of LDC on 14.09.2020 requesting to keep his lien alive with the State of Haryana, as per the Rules. The said resignation was accepted by the respondent(s) *vide* Order dated 24.09.2020 by keeping his lien alive. Counsel contends that the petitioner thereafter joined with the respondent No.4, however, on account of family issues and difficulties, he took a decision to re-join his parent Department and made a request to respondent No.4 *vide* letter dated 08.09.2021 for seeking repatriation to his parent Department. The said request was not acted upon and was hence followed by a reminder, however, as no decision was taken, the petitioner approached this Court by way of CWP No.23628/2022. The same was disposed of *vide* order dated 17.10.2022 with directions to the respondent(s) to decide the representation. Eventually, the respondent(s) declined the claim of the petitioner for seeking repatriation on the ground that even though he had cleared the probation, however, as he had not been confirmed by the parent Department, hence, as per Rule 8(11) read



with Rule 8(50) and 8(84) of the Haryana Civil Services (General) Rules, 2016, the petitioner cannot be taken back in service.

3. I have heard the learned counsel for the parties and have perused the documents appended with the instant writ petition.

4. It is evident that the petitioner had successfully completed his two years' probation with his parent Department, as per the communication dated 19.03.2020. It is also not in dispute that at the time when the resignation of the petitioner was accepted, his lien over the post of LDC had been kept alive and the same was also duly reflected in the order dated 24.09.2020. Rule 8(11) defines 'confirmation' as *the substantive appointment of a Government employee against a regular post on completion of probation period successfully by specific order of the competent authority*. 'Lien' has been defined under Rule 8(50) to mean *the title acquired by a Government employee after confirmation against a regular post*.

5. It is not in dispute that the petitioner having completed his probation, his order of confirmation was required to be passed by the Government. The respondent(s) having failed in passing the administrative order of confirmation, it cannot thereafter hold the petitioner accountable for lapses on their part.

6. Besides, the respondent(s) having specifically accepted the resignation of the petitioner by keeping the lien of the petitioner against the said post, it undoubtedly led the petitioner to believe that an order of confirmation would have actually been passed. The consequences of the

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lapse, if any, on the part of the respondent(s), in failing to pass the formal orders, that did not require any other overt act or omission on the part of the employee, cannot be read against him.

7. Consequently, the instant writ petition is **allowed** and the impugned order dated 05.01.2024 passed by respondent No.2 is set aside. The respondent(s) are directed to take the petitioner back in service against the post for which his lien would be deemed to exist. Let the needful be done within a period of two months on receipt of certified copy of this order, subject to the petitioner being relieved by respondent(s) No.4.

**(VINOD S. BHARDWAJ)**  
**JUDGE**

**13.08.2025***Rahul Joshi*

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No