

**(2002) 02 P&H CK 0019**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 10803 of 2000**

|                                |    |            |
|--------------------------------|----|------------|
| Mohinder Lal Puri              | Vs | APPELLANT  |
| The State of Punjab and Others |    | RESPONDENT |

---

**Date of Decision :** 04-02-2002

**Acts Referred:**

Punjab Civil Services Rules — Rule 7.5

**Citation :** (2002) 02 P&H CK 0019

**Hon'ble Judges :** Jasbir Singh, J

**Bench :** Single Bench

**Advocate :** C.B. Kukkar and Sudershan Goel, for the Appellant; N.S. Pawar, for the Respondent

**Final Decision :** Allowed

---

## Judgement

Jasbir Singh, J.—Primary question in the present writ petition is whether the petitioner, having resigned from service, is still entitled to claim pensionary benefits.

2. Facts of the case are that the petitioner joined service with the State of Punjab in the office of Chief Engineer (Irrigation Works), Punjab, on January 21, 1954. Thereafter, he was confirmed as a Clerk on November 18, 1960. He was promoted as an Assistant in routine manner. During service, he appeared in the Punjab Civil Services, (Executive Branch) Competitive Examination and was selected. He was posted as Assistant Excise and Taxation Officer at Jalandhar on September 29, 1964. Due to certain personal circumstances, he resigned from service on July 22, 1972, and relinquished the charge on the same day. He thereafter kept mum and never agitated his claim regarding pensionary benefits. It was only after the year 1994 that he started claiming pensionary benefits on the ground that since the service rendered by him till his resignation qualified him to get the pensionary benefits, the same be paid to him. When failed to get any response from the respondents, he filed the present writ petition.

3. Upon notice, respondents put up their appearance and filed written-statement wherein claim of the petitioner has been resisted primarily on two grounds, firstly, it is barred by limitation and secondly, in view of rule 7.5 of the Punjab Civil Services Rules, (hereinafter referred to as the Rules) Volume I, Part I, an employee forfeits his service rendered earlier by resigning from service.

4. Shri C.B. Kukkar, Advocate, appearing for the petitioner, has vehemently contended that the petitioner had rendered more than 18 years" service when he tendered his resignation, as such he is entitled to get pensionary benefits. He says that since loss of pensionary benefits is a recurring loss, bar of limitation cannot be pleaded against him. He further states that rule 7.5 of the Rules was not in existence at the time of acceptance of his resignation. This rule was incorporated and added only by a notification dated February 19, 1982 (Annexure P-7) As such, benefit cannot be denied to him on the basis of this rule.

5. Shri N.S. Pawat, Addl. Advocate General, Punjab controverted the averments made by the counsel for the petitioner, and stated that the present writ petition has been filed after about 28 years of the acceptance of resignation of the petitioner and furthermore in view of rule 7.5 of the Rules, no relief can be given to the petitioner.

6. Admittedly, petitioner joined service with the State of Punjab on January 21, 1954 as a Clerk. He was promoted as an Assistant in due course. When he was working in the office of Chief Engineer (Irrigation Works), Punjab, he applied through proper channel and appeared in examination conducted by the Punjab Public Service Commission for civil services (Executive Branch) and he was selected and appointed as Assistant Excise and Taxation Officer on September 29, 1964 and ultimately he resigned on July 22, 1972. In this manner he had rendered about eighteen years of service under the Government, which qualifies him to claim pensionary benefits.

7. So far as argument of the counsel for the respondents that the petitioner is not entitled to this relief since he has filed the present writ petition after about three decades of his leaving the service, the same is not tenable now in view of several pronouncements of the Hon"ble Supreme Court and this Court. A Division Bench of this Court in Surjeet Singh v. State of Punjab and Ors., 1997(3) Recent Services Judgments 572, while dealing with similar situation allowed pensionary benefits to an employee who retired from service on March 31, 1976 and filed the writ petition in the year 1995. While allowing that writ petition, it was observed as under:-

"It is true that the petitioner had retired from service on March 31, 1976 (wrongly mentioned as April 1, 1976, in the writ petition and the written-statement). It also appears that the first representation was submitted by the petitioner on January 8, 1988. Still the fact remains that the petitioner is not being given the benefit of the service rendered by him in District Board schools towards the computation of his pension. He continues to suffer the loss on this

account. Still further, the Government is under a statutory obligation to settle the retiral benefits of an employee. If he is wrongfully denied certain benefits, the State cannot be permitted to take advantage of its own wrong and plead that the claim is barred by limitation. By the lapse of time, no third party rights have accrued. The treasury only keeps the money belonging to the citizen. That being so, the claim for pension or other benefits cannot be denied on account of delay. Reference in this behalf may be made to the observations of their Lordships of the Supreme Court in S.R. Bhanrale Vs. Union of India and others, , that bar of limitation cannot be pleaded by the Government when the department itself had defaulted in making payments promptly. Resultantly, we answer the first question in the negative and hold that a claim for pension or other retiral benefits cannot be denied on the ground of delay alone."

8. In view of the above observations, objection of the respondents regarding limitation is rejected.

9. So, far as denial of rights of the petitioner on the basis of rule 7.5 of the Rules is concerned, the same is not tenable. The said rule reads as under:-

"7.5 (1) Resignation from a service or a post unless it is allowed to be withdrawn in public interest by the appointing authority, entails forfeiture of past service.

(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 for pension.

(3) to (6) xxx xxx xxx

10. As is evident from the Notification Annexure P-7 dated February 19, 1992 rule 7.5 was added/inserted in the Rules only in the year 1982 and as such the same cannot be applied against the petitioner. The petitioner resigned in 1972. At that time, he had already rendered about eighteen years of service.

11. In view of the reasoning given above, writ petition is allowed and the respondents are directed to grant pensionary benefits to the petitioner. Necessary order be passed within two months from the date of receipt of a copy of this order. Since the petitioner has filed the present writ petition at a very late stage, he will be entitled to get benefits from the date of filing of the present writ petition. There will be no order as to costs. If the amount as aforesaid is not released to the petitioner within two months, he shall be entitled to claim interest thereon at the rate of 10% per annum till the date of realisation.