

**CWP-14650-200 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****225****CWP-14650-2020 (O&M)****Reserved on : 17.07.2025****Pronounced on : 25.07.2025****Suman****...Petitioner****Versus****State of Haryana and others****...Respondents**

Present: - Ms. Alka Chatrath, Advocate and
Mr. Nikhil Singh, Advocate for the petitioner

Ms. Palika Monga, Deputy Advocate General, Haryana

JAGMOHAN BANSAL, J.

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 04.07.2020 whereby respondent has rejected her claim to permit her to rejoin as Lady Constable.

2. The petitioner joined Haryana Police Force as Constable on 28.10.2003. Her place of first posting was Police Lines, Rohtak. Thereafter, she was transferred to Bhiwani on 23.07.2007. Haryana Staff Selection Commission (in short 'HSSC') invited applications for the post of PTI Teacher. The petitioner applied for the said post of Teacher through proper channel. She participated in the selection process and came to be recommended by HSSC and was issued appointment letter dated 05.05.2010. She requested respondent-Police Department to relieve her. She was relieved by the said respondent to join as PTI Teacher. She joined as PTI Teacher on 07.05.2010. The Superintendent of Police, Bhiwani sent her

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character roll and GPF No.57023 to the District Education Officer, Bhiwani. The entire selection process of PTI Teacher came to be challenged. This Court vide judgment dated 11.09.2012 set aside the entire selection process. The petitioner and other selected candidates preferred LPAs before this Court. The Division Bench stayed the judgment of learned Single Judge and petitioner continued to work. LPAs came to be dismissed vide judgment dated 13.09.2013. The petitioner and other candidates preferred SLP before the Hon'ble Supreme Court which Court at the first instance stayed judgment of Division Bench of this Court, however, finally vide judgment dated 08.04.2020 dismissed Civil Appeal No.2103 of 2020 (arising out of SLP No.35373 of 2013). In view of the judgment dated 08.04.2020 of the Hon'ble Supreme Court, services of the petitioner came to be terminated vide order dated 01.06.2020. The petitioner, at this stage, approached Police Department seeking rejoining on the ground that she was holding lien on her post of Constable, thus, she should be permitted to rejoin. The respondent rejected her claim on the ground that she remained out of service for more than 10 years and there is no provision to permit her to rejoin under Punjab Police Rules, 1934 (as applicable to State of Haryana) (for short 'PPR').

3. Ms. Alka Chatrath, Advocate submits that the petitioner served Police Department from 2003 to 2010. Probation period cannot be beyond three years. In case of Constables, no formal order of confirmation is passed. In reply to the RTI application, respondent has confirmed that no order of confirmation was passed in the case of her colleagues. The petitioner was having lien and as per Rule 30 of Haryana Civil Services Rules, 2016 (for short '2016 rules'), she continued to hold lien on her post of Constable because she joined Education Department through proper channel

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and was never confirmed in the Education Department. There was two years' probation, however, prior to her confirmation, entire selection process was declared bad by this Court. On account of interim orders of Division Bench of this Court as well as Hon'ble Supreme Court, she continued to work till 2020. The Education Department in its reply has confirmed that the petitioner was never confirmed in the Education Department. She never acquired lien on the post of Teacher, thus, her lien on the post of Constable continued. As per respondent, Rule 30 of Haryana Civil Services Rules is inapplicable because 2016 Rules are not retrospective and petitioner was relieved from Police Department in 2010. If 2016 Rules are inapplicable, she is governed by Punjab Civil Services Rules (as applicable to State of Haryana). As per Rules 3.12 and 3.15, she was having lien on the post of Constable and it continued despite her joining as Teacher.

4. On 03.07.2025, the following order was passed by this Court:-

"The State is claiming that petitioner was appointed on probation. The period of probation was two years which could be further extended. The petitioner was selected as Constable and she joined service on 28.10.2003. The State is relying upon Rule 13.18 of Punjab Police Rules, 1934 (for short 'PPR') to contend that petitioner was appointed on probation and was never confirmed. In the absence of order of confirmation, she remained on probation till she was relieved in 2010 to join the Education Department.

From the perusal of Rule 13.18 of PPR, it is evident that it is applicable to Officers promoted in rank. The petitioner was not promoted in rank whereas she was selected at lowest post i.e. Constable.

Faced with this, Ms. Palika Monga, DAG, Haryana seeks time to produce original appointment letter of the petitioner as well as copy of confirmation order passed in the



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case of any other Constable who was appointed along with the petitioner.

Adjourned to 17.07.2025.

To be taken up immediately after the urgent list."

5. During the course of resumed hearing, Ms. Palika Monga, DAG, Haryana produced letter issued to petitioner at the time of her appointment in the Police Department. This is an undated letter. Scanned copy of the same is reproduced as below:-

<u>आदेश</u>		
नाम सुमन	पुत्र/पुत्री/ बाल्यो प्रीत सिंह	जाति जाट
गाँव भैरवा	पाना सदर चरकी दादरी	जिला गिवाणी
जो डाक्टरों निरोक्षण में चिट करा दिया गया है और उसको छातो	NIC	
उम्र 5'-2 3/4"	जन्म तिथि 1-2-1985	शिक्षा 10+2
दिनांक 28-10-03	से बा आदेश सिवाही अस्थाई कोर्ट को छातो जग में तबोरतो	
आधार नर 3050-5325 रुपये माह नर भर्ती किया गया है और इस जिला का		
जिला नो 1069/रोहतक आट किया गया है सभी सम्बन्धित सूचित रहकर आदेश दर्ज		
करो होंगे ।		
आर्डर कुं क्लर्क, सेना क्लर्क , आचरण नजो क्लर्क, लेखाकार ।	(03N-708 03)	मुख्य अधिकारी रोहतक
<u>पुलिस विभाग</u>	<u>जिला रोहतक</u>	
, मैं सुमन 0/0 प्रीत सिंह सोगन्ध खाती हूँ और सच्चे दिल से इकरार करती हूँ कि जब तक पुलिस विभाग में नौकरी करूँगी तो सरकार का धनोपार्ध करूँगी तथा ईमानदारो तथा नेक नियति से काम करूँगी सरकार के हर जायज आदेश को हर समय बालना करूँगी और सदाक दिलो से काम करूँगी ।		
साक्षर व्यक्ति	Suman हस्ताक्षर	
मुख्य अधिकारी रोहतक		
रोहतक		



From the perusal of aforesaid letter, it is evident that there was no condition prescribing that initial appointment of the petitioner is on probation and there would be three years probation.

6. Ms. Monga pointed out Rules 12.1(3), 12.2(3), 19.5 and 12.21 of PPR to support her contention that petitioner was appointed on probation and her probation period was three years. The petitioner was never confirmed, thus, she was not a confirmed Constable of the department. As the petitioner was never confirmed, she did not hold lien on the post of Constable. Lien is only available to a permanent/confirmed employee. As the petitioner was never confirmed, she was not entitled to lien. The petitioner remained out of service for 10 years. Lien cannot continue for an indefinite period and it cannot be presumed by any stretch of imagination or by applying Civil Services Rules that the petitioner continued to possess lien on the post of Constable. 2016 Rules are inapplicable to the petitioner because she left Police Department in 2010 whereas 2016 Rules came into force in 2016 and these Rules are not retrospective in nature. The petitioner was not confirmed in the Education Department, however, she had worked there for 10 years, therefore, she got lien in the Education Department and her lien in any case stood vacated from the Police Department.

7. By order dated 03.07.2025, the respondent was directed to produce copy of confirmation order passed in the case of any other Constable who was appointed along with the petitioner.



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8. Ms. Monga on instructions from SI Manoj Kumar (Office of SP, Bhiwani) submits that there is no document on record disclosing that any Constable appointed along with petitioner was ever confirmed.

9. I have heard learned counsel for the parties and perused the record of the case.

10. From the perusal of the record and arguments of both sides, the following questions arise for the consideration of this Court:-

- i.) Whether the petitioner was a confirmed Constable or probationer while leaving Police Department?
- ii.) Whether the petitioner was holding lien at the time she joined Education Department?
- iii.) Whether the petitioner continued to hold lien on the post of Constable till her discharge by the Education Department?

11. The conceded position emerging from the record is that the petitioner joined Haryana Police Force on 28.10.2003. She applied for the post of PTI Teacher in 2006. Her application was forwarded by the Police Department, meaning thereby, she applied through proper channel. She was selected in May' 2010. She requested the respondent to relieve her so that she may join Education Department. She was relieved by the Police Department and she joined Education Department on 07.05.2010. Her GPF account along with Character Roll/service record was transferred to Education Department. This Court set aside entire selection process of PTI teachers vide order dated 11.09.2012. The petitioner and similarly situated employees filed intra-court appeal wherein interim relief was granted. LPA

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came to be dismissed vide judgment dated 13.09.2013. The petitioners and others approached Hon'ble Supreme Court which granted interim protection. The said appeals came to be dismissed vide judgment dated 08.04.2020 passed by Hon'ble Supreme Court. The petitioner came to be relieved by Education Department on 01.06.2020. The Police Department has rejected her lien and refused to permit her to rejoin.

Question No.1 :- Whether the petitioner was a confirmed Constable or probationer while leaving Police Department?

12. The petitioner was appointment to the post of PTI by the Education Department vide appointment letter dated 07.05.2010. As per terms and conditions of the said appointment, there was probation period of two years. The said period could be extended for a period not exceeding one year. Her services were governed by the Civil Services Rules as applicable to Government employees of State of Haryana. The relevant extracts of appointment letter read as:-

“6. That they shall be on probation for a period of two years. The period of probation can be extended further for a period not exceeding one year, if considered necessary by the competent authority.

*7. That in matters, not specifically mentioned in this communication, they shall be governed by the Civil Services Rules as applicable to Haryana Government employees and such Rules/ Orders/ Instructions as may be issued by the State Government from time to time. That they shall further be governed by the **Haryana State Education School Cadre (Group-C) Service Rules, 1998** as amended from time to time.”*

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From the perusal of the aforesaid terms and conditions of appointment letter issued by Education Department, it is evident beyond the pale of doubt that she was appointed as a probationer and her service was governed by the Punjab Civil Services Rules as applicable to the Haryana Government employees.

13. The petitioner in 2003 was appointed in Police Department as Constable. From the reading of her appointment letter issued by the Police Department, it is evident that no term or condition was jotted down in the said letter. It was not mentioned at all in the appointment letter that there would be probation period. Resultantly, her appointment was bound to be governed by PPR.

14. Ms. Monga during the course of arguments pointed out Rules 12.1(3), 12.2(3), 12.8, 12.21, 13.18 and 19.5 of PPR to support her contention that the petitioner was appointed on probation and her probation period was three years. For the ready reference, the aforesaid rules are reproduced as below:-

“12.1(3). The power to confirm the appointment of officers appointed on probation vests in the prescribed appointing authority.

12.2 Seniority and Probation (1) The seniority of Assistant Superintendents of Police is regulated by the orders passed from time to time by the Secretary of State and the Central Government.

No Probationary Assistant Superintendent of police shall be permanently appointed as an Assistant Superintendent of Police until he has passed the prescribed departmental examinations.



A Probationary Assistant Superintendent of Police who does not qualify by passing these examinations, within two years, or at the first examination after two years, from the date of his joining the service, will be removed from Government service; provided that the Provincial Government shall have power to relax this rule in special cases, when the probationary Assistant Superintendent of Police is likely to make a good police officer.

(2) The rules governing the probation and seniority of Deputy Superintendents of Police are contained in Appendix 12.1.

(3) All appointments of enrolled police officers are on probation according to the rules in this Chapter applicable to each rank.

12.8. Probationary nature of appointments:- *(1) Inspectors and Sub-Inspector who are directly appointed will be considered to be on probation for three years and are liable to be discharged at any time during or on the expiry of the period of their probation if they fail to pass the prescribed examinations including the riding test, or are guilty of grave misconduct or are deemed, for sufficient reason, to be unsuitable for service in the police. A probationary inspector shall be discharged by the Inspector-General and all other Upper Subordinates by Range Deputy Inspector-General and Superintendent of Police Railways, Assistant Inspector-General, Provincial Additional Police (designated as Commandant, Provincial Additional Police) and Assistant Inspector-General of Police (Traffic). No appeal lies against an order of discharge.*

Provided that the competent authority may, if it so thinks fit in any case, extend the period of probation by one year in the aggregate and pass such orders at any time during or on the expiry of the extended period of probation as it could have passed during or on the expiry of original period of probation.



(2) The pay admissible to a probationary Inspector, Sub-Inspector or Assistant Sub-Inspector is shown in Appendix 10.64, Table A.

*12.21. **Discharge of inefficients.**- A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this Rule.*

*13.18. **Probationary period of promotion.**- All Police Officers promoted in rank shall be on probation for two years: provided that the appointing authority may, by a special order in each case, permit periods of officiating service to count towards the period of probation. On the conclusion of the probationary period, the competent authority may either confirm the probationer or revert him or, if it so thinks fit, extend the period of probation by one year in the aggregate and on the conclusion of the extended period of probation, pass such orders as it could have passed on the conclusion of the original period of probation. While on probation officers may be reverted or their period of probation may be extended without departmental proceedings. Such reversion shall not be considered reduction in rank for the purpose of rule 16.4. This rule shall not apply to constables and Sub-Inspectors promoted to the selection grade, whose case is governed by rules 13.5 and 13.14.*

*19.5. **Further training of Constables.** - (1) The fact that a recruit has been passed into the ranks under rule 19.3 shall not be taken to mean that he is a fully trained Constables. A Constable under three years' service is at any time liable to discharge under rule 12.21. During the whole of this period he shall be kept under close supervision and reported on at intervals of six months in Form 19.5(1) by the Sub-Inspector*



or Inspector under whom he is working through his gazetted officer to the Superintendent of Police.

The orderly Head-Constable shall maintain a list of Constables under three years' service. He shall submit the name of each man a month before he is due for confirmation to the Superintendent together with his personal file which shall contain the form 19.5(1) referred to in this rule.

Gazetted officers are expected to make themselves acquainted, as far as possible, with the characters and careers of all Constables under three years' service and shall be responsible that the names of men unlikely to make efficient police officers are brought to the notice of the Superintendent.

(2) On being transferred from the lines after completion of his training in the first reserve, a Constable under three years' service shall be instructed in the practical duties of a Constable by the Inspector or Sub- Inspector under whom he is serving. He shall be sent out on beat, patrol, traffic and other duties with a selected senior Constables who shall be made to feel his responsibility for the instruction of the younger man."

Rule 12.1 (3) provides that power to confirm the appointment of officers appointed on probation shall vest in Appointing Authority. This is an empowering provision which creates power in the Appointing Authority.

Rule 12.2 (3) makes it clear that all appointments of enrolled officers are on probation according to the Rules in this chapter applicable to each rank. Expression 'according to the Rules in this chapter' used in Rule 12.2 (3) makes it clear that probation is according to Rules of Chapter 12 as applicable to each rank. Rule 12.2 (1) provides for probation of ASP and



DSP. Appendix 12.1 further lays down mode and manner of training and exam during probation.

Rule 12.8 adverts to probation of Inspectors and Sub-Inspectors who are directly appointed. This Rule does not provide for probation of Constables. Rule 13.18 provides for probation on promotion.

Recruitment of Constable is made directly. The petitioner was also selected in the process of direct recruitment. The appointment and probation are governed by Rule 12, thus, Chapter 13 is not in any case applicable because it deals with promotion. Post of Constable is not a promotional post whereas it is lowest post among the subordinate ranks.

From the perusal of aforesaid provisions quoted by Ms. Monga, it is evident that there is nothing in the abovesaid Rules enjoining that appointment of the Constable at the first instance would be as probationer and it would be confirmed after three years. All the Rules are applicable to Head Constable, ASI, SI, ASP and DSP.

Rule 19.5 pointed out by State counsel deals with training and permits authorities to discharge a Constable during initial three years' service. Provision of training and discharge during training cannot be equated with appointment on probation. Probation period is specifically provided in Chapter 12 of PPR, thus, Chapter 19 cannot be invoked to hold that appointment of petitioner as Constable was temporary and she was on probation of three years. There is no provision of passing confirmation order by appointing authority.

15. The respondent despite specific directions of this Court could not produce confirmation letter of any colleague of the petitioner which



vindicates stand of the petitioner that no confirmation order is passed in the case of Constables. In the absence of confirmation order of colleagues of the petitioner, it can be safely concluded that there is no provision of confirmation of constables. The respondent has power to discharge any constable during his initial three years of appointment. The said power cannot be equated with probation and confirmation.

16. The petitioner was appointed as Constable in October' 2003 and she continued to work till May' 2010. As per respondent, since no confirmation order was passed, thus, she remained on probation till 2010. The respondent has conceded that no confirmation order was passed with respect to similarly situated other Constables. Meaning thereby, it is normal practice of respondent that no confirmation order is passed in the case of Constables. The practice seems to be evolved from the Rules which nowhere provide for probation and thereafter confirmation of Constables. In any case, the petitioner worked for seven years in the Police Department without interruption. There was no order of extension of probation period. If contention of the respondent is accepted that the petitioner was appointed on probation of three years still she ought to be deemed as confirmed employee on the expiry of said period.

17. In the absence of any particular Rule as well as evidence of confirmation of any other Constable, this Court comes to inescapable conclusion that neither there is any provision in PPR for confirmation of Constables nor any order of confirmation is passed by the respondent. It appears that the legislature as per its wisdom has decided not to provide for confirmation of constables because it is the lowest post in the Police



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Department. It is apt to mention here that the Government has retained power to discharge a Constable within first three years of service. The power to discharge on account of one or another reason is an altogether different nuance of service jurisprudence and cannot be kept in the compartment of probation and confirmation.

18. A three Judge Bench of Hon'ble Supreme Court in ***High Court of M.P. Vs. Satya Narayan Jhavar (2011) 7 SCC 161*** has held that question of confirmation needs to be adjudicated in accordance with language of the appointment letter and applicable Rules. The Court noted that there are three lines of cases on the issue of the probation and confirmation. The Court has held :-

"11. The question of deemed confirmation in service jurisprudence, which is dependent upon the language of the relevant service rules, has been the subject-matter of consideration before this Court, times without number in various decisions and there are three lines of cases on this point.

One line of cases is where in the service rules or in the letter of appointment a period of probation is specified and power to extend the same is also conferred upon the authority without prescribing any maximum period of probation and if the officer is continued beyond the prescribed or extended period, he cannot be deemed to be confirmed. In such cases there is no bar against termination at any point of time after expiry of the period of probation.

The other line of cases is that where while there is a provision in the rules for initial probation and extension thereof, a maximum period for such extension is also provided beyond which it is not permissible to extend probation. The inference in such cases is that the officer



concerned is deemed to have been confirmed upon expiry of the maximum period of probation in case before its expiry the order of termination has not been passed.

The last line of cases is where, though under the rules maximum period of probation is prescribed, but the same requires a specific act on the part of the employer by issuing an order of confirmation and of passing a test for the purposes of confirmation. In such cases, even if the maximum period of probation has expired and neither any order of confirmation has been passed nor has the person concerned passed the requisite test, he cannot be deemed to have been confirmed merely because the said period has expired.”

19. A Constitution Bench in ***State of Punjab Vs. Dharam Singh*** ***AIR 1968 SC 1210*** interpreted Rule 6 of the Punjab Educational Service (Provincialised Cadre) Class III Rule, 1961. The Rule stipulated that the period of probation shall be one year and the total period of probation shall not exceed three years. The Court granted relief to the claimants as their services were continued beyond three years and the relevant rules as well as appointment letters did not stipulate the issuance of any order of confirmation. The Court has held:

"9. Immediately upon completion of the extended period of probation on October 1, 1960, the appointing authority could dispense with the services of the respondents if their work or conduct during the period of probation was in the opinion of the authority unsatisfactory. Instead of dispensing with their services on completion of the extended period of probation, the authority continued them in their posts until sometime in 1963, and allowed them to draw annual increments of salary including the increment which fell due on October 1, 1962. The rules did not require them to pass any test



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or to fulfil any other condition before confirmation. There was no compelling reason for dispensing with their services and re-employing them as temporary employees on October 1, 1960, and the High Court rightly refused to draw the inference that they were so discharged from services and re-employed. In these circumstances, the High Court rightly held that the respondents must be deemed to have been confirmed in their posts. Though the appointing authority did not pass formal orders of confirmation in writing, it should be presumed to have passed orders of confirmation by so allowing them to continue in their posts after October 1, 1960."

20. In ***Durgabai Deshmukh Memorial Senior Secondary School and Anr. Vs. J.A.J. Vasu Sena and Anr. (2019) 17 SCC 157*** the Supreme Court adverted to Rule 105 of Delhi School Education Rules, 1973. The said Rule deals with probation and confirmation of the employees. Rule 105 of 1973 Rules reads as:-

"105. Probation (1) Every employee shall, on initial appointment, be on probation for a period of one year which may be extended by the appointing authority by another year [with the prior approval of the Director] and the services of an employee may be terminated without notice during the period of probation if the work and conduct of the employee, during the said period, is not, in the opinion of the appointing authority, satisfactory:

Provided that the provisions of this sub-rule relating to the prior approval of the Director in regard to the extension of the period of probation by another year shall not apply in the case of an employee of a minority school:

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(2) If the work and conduct of an employee during the period of probation is found to be satisfactory, he shall be on the expiry of the period of probation or the extended period of probation, as the case may be confirmed with effect from the date of expiry of the said period."

Hon'ble Court reversed opinion of Delhi High Court and held that as per Rule 105 (2) of 1973, an employee despite working beyond probation period is not deemed to be confirmed unless and until order of confirmation is passed. The Court has held:-

38 *It emerges from the consistent line of precedent of this Court that where the relevant rule or the appointment letter stipulates a condition precedent to the confirmation of service, there is no deemed confirmation of service merely because the services of a probationer are continued beyond the period of probation. It is only upon the issuance of an order of confirmation that the probationer is granted substantive appointment in that post. Rule 105(2) stipulates the satisfaction of the appointing authority as a condition precedent to the issuance of an order of confirmation. The argument advanced by the learned counsel for the first respondent that there is a deemed confirmation upon the continuation of service beyond the expiry of the period of probation is negated by the express language of Rule 105(2). In this view, the continuation of services beyond the period of probation will not entitle the probationer to a deemed confirmation of service. The High Court has erred in holding that there is a deemed confirmation where the services of a probationer are continued beyond the expiry of the probationary period.*

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21. In the case in hand, neither appointment letter nor any particular Rule is delineating probation period and thereafter confirmation. The petitioner was appointed in 2003 and she was not discharged during her initial three years of service and she continued to work till 2010. Case of petitioner is squarely covered by judgment of Supreme Court in ***Dharam Singh (supra)***. Thus, for all intent and purposes, the petitioner was a confirmed employee in 2010.

Question No.2 Whether the petitioner was holding lien at the time she joined Education Department?

22. The petitioner was denied lien on the ground that she was not a confirmed employee. As held hereinabove, the petitioner was confirmed/permanent employee, thus, contention of respondent that petitioner was not holding lien as she was not a permanent employee cannot be countenanced. Accordingly, argument of respondent is hereby rejected.

Question No.3 Whether the petitioner continued to hold lien till her discharge by the Education Department?

23. The respondent has contended that 2016 Rules are inapplicable to the petitioner and she is governed by Punjab Civil Services Rules as applicable to State of Haryana. During the course of hearing, the counsel for the parties produced Punjab Civil Services Rules as applicable to State of Haryana. In the book produced by them, Rules 3.11, 3.13 and 3.14 are available. Rules 3.11, 3.13 and 3.14 stand omitted with effect from 08.09.1991 vide Punjab Government Notification No.14/1/92-4FPII/4752 dated 28.05.1997. Even Rule 3.15 also stands amended *vide* notification dated 28.05.1997. There is nothing on record to ascertain whether State of



Haryana has adopted amendments carried out by State of Punjab or not, thus, unamended Rules are applied to the instant case. Rule 3.12, 3.13, 3.14 and 3.15 which are applicable to the instant case are reproduced as under-

“3.12 Unless in any case it be otherwise provided in these rules, a Government employee on substantive appointment to any permanent post acquires a lien on that post and ceases to hold any lien previously acquired on any other post.

3.13 Unless his lien is suspended under rule 3.14 or transferred under rule 3.16, a Government employee holding substantively a permanent post retains a lien on that post:-

(a) while performing the duties of that post;

(b) while on foreign service, or holding a temporary post, or officiating in another post;

(c) during joining time on transfer to another post; unless he is transferred substantively to a post on lower pay; in which case his lien is transferred to the new post from the date on which he is relieved of his duties in the old post;

(d) except as provided in Note below while on leave other than refused leave granted after the date of compulsory retirement under rule 8.21: and

(e) while under suspension

Note.— When a Government employee, holding substantively the post of a Chief Engineer of the Public Works Department, takes leave immediately on vacating his post he shall during the leave be left without a lien on any permanent post.

The word “vacate” as used in this note refers only to vacation as a result of completion of tenure on attainment of superannuation.



3.14 (a) *A competent authority shall suspend the lien of a Government employee on a permanent post which he holds substantively; if he is appointed in a substantive capacity—*

(1) to a tenure post, or

(2) to a permanent post outside the cadre on which he is borne, or

(3) provisionally, to a post on which another Government employee would hold alien, had his lien not been suspended under this rule.

(b) A competent authority may, at its option, suspend the lien of a Government employee on a permanent post which he holds substantively, if he is deputed out of India or transferred to foreign service, or in circumstances not covered by clause (a) of this rule, is transferred, whether in a substantive or officiating capacity, to a post in another cadre, and if in any of these cases there is reason to believe that he will remain absent from the post on which he holds a lien, for a period of not less than three years.

(c) Notwithstanding anything contained in clause (a) or (b) of this rule, a Government employee's lien on a tenure post may, in no circumstances, be suspended. If he is appointed substantively to another permanent post, his lien on the tenure post must be terminated.

(d) If a Government employee's lien on a post is suspended under clause (a) or (b) of this rule, the post may be filled substantively, and the Government employee appointed to hold it substantively shall acquire a lien on it : Provided that the arrangements shall be reversed as soon as the suspended lien revives.

Note 1.— This clause shall also apply to a post in a selection grade of a cadre.

Note 2.— When a post is filled substantively under this clause, the appointment will be termed “a provisional



appointment”: the Government employee appointed will hold a provisional lien on the post; and that lien will be liable to suspension under clause (a) but not under clause (b) of this rule.

(e) *A Government employee’s lien which has been suspended under clause (a) or (b) of this rule, shall revive as he ceases to hold a lien on a post of the nature specified in sub-clause (1), (2) or (3) of that clause.*

(f) *A Government employee’s lien which has been suspended under clause (b) of this rule shall revive as soon as he ceases to be on deputation out of India or on foreign service or to hold a post in another cadre : Provided that a suspended lien shall not revive because, the Government employee takes leave if there is reason to believe that he will on return from leave, continue to be on deputation out of India or on foreign service or to hold a post in another cadre and the total period of absence on duty will not fall short of three years or that he will hold substantively a post of the nature specified in sub-clause (1) (2) or (3) of clause (a).*

Note.— When it is known that a Government employee on transfer to a post outside his cadre is due to retire on superannuation pension within three years of his transfer, his lien on the permanent post cannot be suspended.

3.15 (a) *Except as provided in clause (c) of this rule and in note under rule 3.13, a Government employee’s lien on a post may, in no circumstances, be terminated, even with his consent, if the result will be to leave him without a lien or a suspended lien upon a permanent post.*

(b) *In a case covered by sub-clause (2) of clause (a) of rule 3.14 the suspended lien may not, except on the written*



request of Government employee concerned, be terminated while the Government employee remains in Government Service.

- (c) *Notwithstanding the provisions of rule 3.14 (a), the lien of a Government employee holding substantively a permanent post shall be terminated while on refused leave granted after the date of compulsory retirement under rule 8.21; or on his appointment substantively to the post of Chief Engineer of the Public Works Department.*

Note.— In a case covered by rule 3.14(a) (2), where a Government employee is appointed in a substantive capacity to a permanent post outside the cadre on which he is borne, rule 3.15 (b) precludes permanently the termination of his suspended lien unless and until a written request to this effect is received from him. The result is that it is possible for such a Government employee to stop his suspended lien being removed from the parent cadre indefinitely and, thus cause inconvenience to the parent office. Such a situation may be met by appropriate executive action being taken by the Controlling officer who may refuse his consent to such a Government employee being confirmed or retained in a permanent post outside his cadre unless he agrees to his lien on a permanent post in his parent office being terminated.

From the perusal of above-quoted Rules, it is evident that the Government employee's lien on the post cannot be terminated without his consent. A Government employee on substantive appointment to any permanent post acquires a lien on the post. If he is appointed in substantive capacity to a permanent post outside the cadre on which he is borne, his lien



is suspended by competent authority. The suspended lien is revived, the moment employee ceases to hold lien on a post. The suspended lien may not be terminated while Government employee remains in Government service. If the employee stops his suspended lien being removed despite his appointment outside the cadre, the controlling officer may refuse to confirm or retain such employee outside his cadre unless he agrees to his lien on a permanent post in his parent office being terminated. Note annexed to Rule 3.15 makes thing clear beyond the iota of doubt. A Government employee continues to hold lien despite his appointment outside the parent cadre. His lien in parent department would cease to exist no sooner his lien is created outside the parent cadre. If the employee stops removal of his lien in parent cadre, the controlling authority may refuse to retain or confirm outside his cadre.

24. In the case in hand, the petitioner was holding post of Constable. On account of her confirmation she was holding lien on the said post. She came to be directly recruited in the Education Department through proper channel. She was appointed on probation in Education Department and was never confirmed in the Education Department, as entire selection process of PTI Teachers was declared bad by this Court. She worked till 2020, however, the said continuation was on account of interim orders passed by this Court as well as Hon'ble Supreme Court. The Education Department in its reply has candidly averred that the petitioner was never confirmed. She worked for 10 years, however, her continuation was on account of interim orders passed by this Court and the Hon'ble Supreme Court. There is no doubt that the petitioner was never confirmed in the Education Department, thus, she never acquired lien in the Education

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Department and as per Rules 3.12 and 3.15 of Punjab Civil Services Rules (as applicable to State of Haryana), she continued to hold lien in her parent department i.e. Police Department.

The competent authority, possibly under the impression that petitioner was not holding lien on the post of Constable, never passed order of suspension of petitioner's lien, thus, it can also be held that in the absence of order of suspension of lien, the petitioner continued to hold lien on the post of Constable

25. Not only Law but also equity seems to be vindicating grief of the petitioner. She left Police department with a hope to serve education department. There was no fraud or illegality on her part, however, she lost job because entire selection process came to be set aside. If she is denied post of constable, she would be out of job despite being selected in two separate government departments. She at present cannot appear in any competitive exam on account of age bar. It would be unfair in equity if she is denied opportunity to serve police department.

26. In the above premise, it is hereby held:

- i.) The petitioner could be discharged within initial three years.
There is no provision either in appointment letter or PPR regarding confirmation of a Constable, thus, petitioner was a confirmed employee in 2010.
- ii.) The petitioner was holding lien on the post of Constable at the time of joining as PTI Teacher.



- iii.) The petitioner continued to hold lien on the post of Constable despite her appointment as PTI Teacher. She was having lien even at the time of her discharge by Education Department in 2020.
27. In the wake of the above discussion and findings, this Court is of the considered opinion that the instant petition deserves to be allowed and accordingly, allowed.
28. The petitioner would be permitted to rejoin Police Department within a period of three weeks from today. It is hereby made clear that her service tenure with Education Department i.e. from 07.05.2010 to 01.06.2020 shall not be counted in her service with Police Department. She would not be entitled to benefit of the said period and would be entitled to counting of her service from 28.10.2003 to 06.05.2010 with Police Department. Her salary, on rejoining, shall be fixed considering her services from 28.10.2003 to 06.05.2010, however, the same would not be less than salary of any constable who has completed seven years of service and at present is working with respondent.
29. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

25.07.2025
Deepak DPA

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