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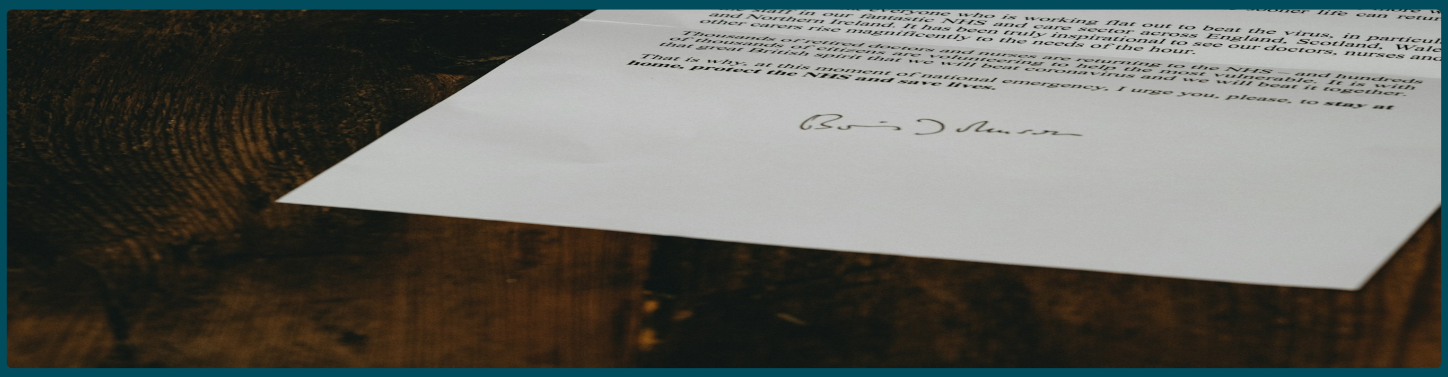

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Technical Resignation as a Bridge, Not a Break: Continuity of Service and Pension Rights in Indian Service Jurisprudence

AUTHOR Nidhi Singh, Ishika Soni

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Introduction

The jurisprudence surrounding pensionary entitlements of government employees in India has consistently evolved under the constitutional vision of a welfare State. Pension is no longer viewed as a matter of executive grace but as a deferred component of compensation earned through years of service. Yet, disputes frequently arise where employees transition from temporary or project-based appointments to regular posts within the same governmental framework. One such recurring issue concerns whether a resignation submitted for the purpose of joining a regular post commonly referred to as a "technical resignation" breaks continuity of service for pension.

In a significant and well-reasoned judgment, the Orissa High Court, in ***Union of India and Others v. Dr. Manoj Kumar Das,***[1] authoritatively reaffirmed that continuity of service for pension benefits is preserved where a technical resignation is followed by immediate rejoining without interruption, provided statutory conditions are satisfied.

The judgment assumes particular importance as it harmonises Rules 13 and 26 of the CCS (Pension) Rules, 1972, principles of service jurisprudence, and constitutional welfare obligations, while also delineating the conceptual difference between absolute resignation and technical resignation.

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Factual Matrix

Dr. Manoj Kumar Das was appointed on 4th January, 1988 as a Technical Officer under the IDVC Project of the National Institute of Malaria Research (NIMR), pursuant to an open selection process. Though appointed on a temporary basis, he was placed in regular government pay scales and remained subject to the disciplinary and service rules applicable to Central Government employees. Over the years, he progressed within the same project: promoted as Research Scientist in 1991, further promoted as Senior Research Scientist in 1994.

In 2007, following a regular selection process conducted through proper channel, he was appointed to the regular cadre of Senior Research Officer under NIMR. To enable this transition, he tendered a resignation explicitly described as a "Technical Resignation" on 15th March, 2007 (afternoon). On the very next day, 16th March, 2007 (forenoon), he submitted his joining report and continued working in the same office, under the same authority, in the same post, with no physical or functional break.

Upon retirement, however, the authorities declined to count his service rendered between 1988 and 2007 for pension and terminal benefits, treating the resignation as causing forfeiture of past service.

Proceedings Before the Tribunal and the High Court

Aggrieved, Dr. Das approached the Central Administrative Tribunal, Cuttack, which allowed his application and directed that his temporary service under the IDVC Project be reckoned as qualifying service for pension.

The Union of India challenged the Tribunal's decision before the Orissa High Court, primarily on the grounds that: the resignation was not a "technical resignation" in law, the resignation was never formally accepted by the competent authority, and the Tribunal failed to follow the Madras High Court decision in P. Philip Samuel.

Issues before the High Court

The High Court was called upon to determine:

- Whether the resignation tendered by the employee amounted to a technical resignation:
- Whether absence of a formal acceptance order nullified the effect of resignation; Whether temporary service followed by immediate regular appointment could be counted as qualifying service under the CCS (Pension) Rules, 1972; and
- Whether the Tribunal's order warranted interference under Articles 226 and 227 of the Constitution.

Statutory Framework

1. **CCS (Pension) Rules, 1972 Rule 13:** Commencement of Qualifying Service Rule 13 provides that qualifying service commences from the date an employee takes charge of a post, whether: substantively, in an officiating capacity, or on a temporary basis, provided such temporary or officiating service is followed without interruption by substantive appointment.

The Court interpreted Rule 13 expansively, holding that its language and policy intent are designed to protect employees who begin service in a temporary capacity and later secure regular appointment. The Rule expressly prevents erasure of prior service merely due to change in employment status.

- **Rule 26(2) and (3):** Forfeiture of Service on Resignation Rule 26(2) stipulates that resignation shall not entail forfeiture of past service when submitted to take up another appointment under the Government with proper permission. Rule 26(3) further neutralises minor interruptions arising due to logistical transitions between appointments.

The Court held that a combined reading of Rules 13 and 26 leaves no ambiguity: where resignation is technical in nature and followed by immediate reappointment, forfeiture of service is statutorily impermissible.

Judicial Reasoning and Judgment

The Orissa High Court's judgment in *Union of India and Others v. Dr. Manoj Kumar Das* reflects a careful synthesis of service jurisprudence, statutory interpretation, and constitutional welfare principles, with the Court adopting a substance-over-form approach to pension continuity. At the outset, the Court unequivocally recognised the resignation tendered by the employee as a technical resignation, observing that *"resignation tendered for joining another Government post through proper channel is a Technical Resignation, and that the employee is entitled to continuity of service."*

This finding was anchored in the undisputed factual continuity, Dr. Das resigned on the afternoon of 15 March 2007 and rejoined on the forenoon of 16 March 2007 in the same office, under the same authority, to the same post, leading the Court to conclude that *"the disconnect sought to be made out between the previous service and the subsequent regular service is fictional and therefore, liable to be ignored."*

Rejecting the Union's contention that the resignation was ineffective due to absence of a formal acceptance order, the Court held that acceptance of resignation need not always be express and may be inferred from conduct, noting that *"cases of tacit acceptance of resignation, by way of conduct of the authorities, are not unknown to Service Jurisprudence."*

The Court reasoned that where the competent authority permits immediate joining without objection, such conduct constitutes deemed acceptance, and insistence on a formal order would amount to undue procedural formalism inconsistent with settled service law principles.

On statutory interpretation, the Court placed decisive reliance on Rule 13 of the CCS (Pension) Rules, 1972, construing it purposively to protect employees who initially enter service in a temporary or officiating capacity and subsequently secure regular appointment. Emphasising the expansive language of the provision, the Court held that *"this Rule by its very text is expansive and intends to extend benefit to a temporary employee who gains permanent one subsequently,"* and that prior temporary service cannot be obliterated while computing qualifying service for pension.

This interpretation was further reinforced by a harmonious reading of Rules 13 and 26(2)-(3), leading the Court to conclude that *"a plain reading of these sub-rules of Rule 26 coupled with Rule 13… would unmistakably lead to a conclusion that the previous temporary service of an employee has to be reckoned along with regular service for the purpose of determining the terminal benefits."*

The Court also declined to apply the Madras High Court's ruling in *P. Philip Samuel*, reiterating that *"a decision is an authority for the proposition that has been laid down in the given fact matrix of a case, and not for all that which logically follows therefrom,"* and holding that the statutory context and factual foundation of the present case were materially distinct. The Bench reiterated the settled principle that judgments are authorities for what they decide, not for what logically follows therefrom, invoking Lord Halsbury's observation in Quinn v. Leathem.

Beyond doctrinal analysis, the judgment is firmly rooted in welfare considerations. Acknowledging the respondent's nearly nineteen years of continuous, meritorious service, including hardship postings and personal detriment suffered during the 2004 tsunami, the Court emphasised that *"ours is a constitutionally ordained Welfare State and therefore, the Government… has to conduct itself as a model litigant."*

Finally, the Court underscored the limited scope of interference under Articles 226 and 227, holding that a writ court does not sit in appeal over a reasoned decision of the Central Administrative Tribunal, particularly where no perversity or jurisdictional error is demonstrated.

Judgment & Order

Upon a careful consideration of the pleadings, the rival submissions advanced by learned counsel for the parties, and a detailed examination of the statutory framework governing pensionary benefits under the CCS (Pension) Rules, 1972, the Orissa High Court declined to interfere with the order passed by the Central Administrative Tribunal, Cuttack.

The Court held that the resignation tendered by the respondent for the purpose of joining a regular post through proper channel constituted a technical resignation, which did not result in forfeiture of past service. It further held that the respondent's temporary service rendered under the IDVC Project from 4 January 1988 to 15 March 2007 was required to be treated as qualifying service for the purposes of pension and other terminal benefits, in view of Rules 13 and 26(2) and (3) of the CCS (Pension) Rules, 1972.

Rejecting the contention of the Union of India regarding the absence of a formal acceptance of resignation, the Court held that acceptance could be inferred from conduct, particularly where the respondent was permitted to join the regular post immediately without any administrative or functional interruption. The Court also found no merit in the reliance placed on the decision of the Madras High Court in *P. Philip Samuel*, holding that the said judgment was distinguishable on facts and statutory context.

In exercise of its limited supervisory jurisdiction under Articles 226 and 227 of the Constitution of India, the Court held that the impugned order of the Central Administrative Tribunal did not suffer from any jurisdictional error, perversity, or illegality warranting interference.

Accordingly, the writ petition filed by the Union of India was dismissed as devoid of merit. The Court directed that the order of the Central Administrative Tribunal be implemented within a period of sixty days from the date of judgment, without giving rise to any further cause for contempt proceedings. No order as to costs was passed.

Conclusion

The Orissa High Court's judgment in Union of India v. Dr. Manoj Kumar Das stands as a lucid reaffirmation of service law principles governing pension, continuity, and technical resignation. By harmonising statutory interpretation with constitutional values and administrative fairness, the Court ensured that long years of service are not rendered meaningless by procedural formalism.

The ruling is an important precedent for government employees transitioning from temporary or project-based roles to regular posts and reinforces the principle that technical resignation is a bridge not a break in service continuity. For administrators, tribunals, and courts alike, the judgment offers a principled roadmap grounded in law, equity, and the welfare philosophy of the Constitution.

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1. ***(W.P.(C) No. 27890 of 2025)*** ??

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