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

LPA-3248-2024 (O&M)

Date of Decision: 05.03.2025

THE MANAGING DIRECTOR ,UHBVN AND ORS

. . . . Appellants

Vs.

INDERJIT SINGH AND ANR.

. . . . Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Deepak Balyan, Advocate with
Mr. Vicky Chauhan, Advocate
for the appellants.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Learned counsel for the appellants submits that the delay in filing the appeal may be condoned. In order to examine whether we should condone the delay, we have heard him on merits too.
2. The impugned order dated 19.07.2023 passed by the learned Single Judge allows the writ petition of the respondent No.1 herein, relying on the provisions of Rule 5.32 (B) of the Punjab Civil Services Rules, Volume II (as applicable to Haryana), which provides that where the appointing authority does not refuse to grant a permission for retirement before the expiry of period specified in sub-Rule 1 (supra), the retirement shall become effective from the date of expiry of the said period.
3. As per sub-Rule 1 of Rule 5.32 (B), three months' period has been provided. Keeping in view thereto, it was required for the appointing authority to have refused the application seeking voluntary retirement



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within three months. However, it is an admitted position that the application duly forwarded seeking voluntary retirement was not addressed to within three months, nor any order of refusal was passed. Resultantly, as per the provisions of the Rules, he would be deemed to have voluntarily retired.

4. The law has been settled by the Supreme Court in the case of ***State of Haryana vs. S.K. Singhal, 1999(4) SCC 293***, wherein the Apex Court held as under:

“13. Thus, from the aforesaid three decisions it is clear that if the right to voluntarily retirement is conferred in absolute terms as in Dinesh Chandra Sangma's case by the relevant rules and there is no provision in Rules to withhold permission in certain contingencies the voluntary retirement comes into effect automatically on the expiry of the period specified in the notice. If, however, as in B.J. Shelat's case and as in Sayed Muzaffar Mr's case, the concerned authority is empowered to withhold permission to retire if certain conditions exist, viz. in case the employee is under suspension or in case a departmental inquiry is pending or is contemplated, their mere pendency of the suspension or departmental inquiry or its contemplation does not result in the notice for voluntary retirement not coming into effect on expiry of the period specified. What is further needed is that the concerned authority must pass a positive order withholding permission to retire and must also communicate the same to the employee as stated in B.J. Shelat's case and in Sayed Muzaffar Mir's case before the expiry of the notice period. Consequently, there is no requirement of an order of acceptance of the notice to be communicated to the employee nor can it be said that non-communication of



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acceptance should be treated as amounting to withholding of permission.”

5. In view thereto, we find that even on merits, no case for interference is made out. The delay of 438 days in filing of appeal is also immense. Accordingly, on both the counts, LPA is dismissed. Application No. CM-8003-LPA-2024 also stands dismissed.
6. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

05.03.2025

Mohit goyal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No