



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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LPA-1368-2025 (O&M)

Date of decision : 29.07.2025

State of Punjab and others

... Appellants

Versus

Ravi Raman

...Respondent

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Ms. Arundhati Kulshreshtha, AAG Punjab
for the appellants.

Anupinder Singh Grewal, J. (Oral)

CM-3357-LPA-2025

This is an application seeking condonation of delay of 63 days in filing the appeal.

Issue notice to the respondent.

Mr. Dhiraj Chawla, Advocate, accepts notice on behalf of the respondent-caveator and submits that he has no objection if the delay is condoned.

In view of the above, the application is allowed and delay of 63 days in filing the appeal is condoned.

CM-3360-LPA-2025

This is an application for placing on record Annexures A-1 to A-5.

Heard. For the reasons stated in the application, the same is allowed and the Annexures A-1 to A-5 are taken on record subject to all just exceptions.

LPA-1368-2025

The appellants have impugned the judgment of the Single Bench dated 27.01.2025 passed in Civil Writ Petition bearing No.8881 of 2019 whereby the writ petition preferred by the respondent was disposed of in terms of the judgment of this Court passed in *State of Punjab and others Vs. Dr. Bhushan Lal Malhotra, 2010 SCC OnLine P&H 6069*.

2. Learned counsel for the appellants submits that the Single Bench has erroneously disposed of the writ petition preferred by the respondent in terms of the judgment of this Court in the case of *Bhushan Lal Malhotra (supra)*, although, the case of the respondent is distinguishable on facts from that case. She submits that the respondent ought to have furnished a minimum notice of 03 months in terms of Rule 3(3) of the Punjab Civil Services (Premature Retirement) Rules, 1975 (hereinafter referred to as 'Premature Retirement Rules'), and he had submitted an application seeking voluntary retirement by only giving 24 hours notice, which was unwarranted. The respondent had absented himself from duty without leave, had been proceeded departmentally and in light of government instructions dated 12.05.2017 (Annexure A-5), respondent had been deemed to have resigned from service from the date of his absence from duty.

3. Learned counsel for the respondent submits that the respondent had submitted an application seeking voluntary retirement after completing 24 years of service along with a demand draft for 03 months salary. The demand draft had been accepted and therefore, the respondent for all intents and purposes was voluntarily retired.

4. Heard.



5. It is apparent that respondent was working as Medical Laboratory Technician Grade-II at Government Medical College, Amritsar, since March 1990. He had been granted a five-year leave under the Self-Occupation Leave Scheme of the State of Punjab. He rejoined and had submitted an application on 18.11.2014 (Annexure P-7) seeking premature retirement w.e.f. the next day, on the ground that there was no one to look after his 80 year old father. Since, he was giving only 24 hours notice, he had attached a demand draft of Rs 1,06,164/-, equivalent to 03 months of his salary. He continued to work till 24.11.2014 (Annexure P-7A). Admittedly, the demand draft was encashed on 04.12.2014. It is also not in dispute that at the time of his application, no disciplinary proceeding or inquiry was either pending or contemplated against him. The Principal, Govt. Medical College forwarded his request for premature retirement to the Director, Medical Education and Research. No order is stated to have been passed on his application seeking premature retirement for about a year and ultimately on 08.10.2015 (Annexure P-9), the Director, Medical Education and Research declined his request for voluntary retirement. Subsequently, on 11/14.03.2016 (Annexure P-10), he was issued a draft list of charges *inter-alia*, on the ground that he had absented himself from duty continuously.

5.1 On learning about the proposed disciplinary action, he moved a representation/letter(Annexure P-13) to the appellants informing them about his pressing domestic circumstances. The Principal, Govt. Medical College, vide letter dated 22.09.2016(Annexure P-14), requested the Director, Medical Education and Research, to take a compassionate view on the claim of the petitioner (respondent herein) and treat him as having prematurely retired w.e.f 18.11.2014. Similar requests on various occasions(Annexures P-15, P-17 and P-18) were again



forwarded by the Principal, Govt. Medical College to the Director, Medical Education and Research. Thereafter, the respondent filed CWP-18302 of 2017 challenging *inter-alia*, the order dated 08.10.2015 (Annexure P-9) rejecting his plea for voluntary retirement. During the pendency of that writ petition, the Director, Medical Education and Research, passed the order dated 18.12.2018 (Annexure P-20) finding him as having been absent from duty since 18.11.2014 and deeming him to have resigned from service from the date of his absence from duty, in light of government instructions dated 12.05.2017 (Annexure A-5). Vide order dated 18.03.2019, the respondent was permitted to withdraw CWP-18302 of 2017 and granted liberty to file a fresh petition on the same cause of action by challenging the order dated 18.12.2018.

6. The following questions arise for our consideration:

(i) Whether the respondent could have been deemed to have voluntarily/prematurely retired in view of Rule 3(3) of the Punjab Civil Services (Premature Retirement) Rules, 1975;

(ii) Whether the notice period of 3 months would be deemed to have been waived-off, in view of the action of the Department in encashing the said demand draft of three months salary.

7. In order to appreciate the controversy in the instant case, we deem it appropriate to reproduce Rule 3 of the Premature Retirement Rules, relevant of which reads as under:-

“3. Premature Retirement.—

(3)(a) At any time after an employee has completed twenty years of qualifying service, he may, by giving notice of not less than three months in writing to the appropriate authority, retire from service.

(b) The notice of voluntary retirement given under this sub-rule shall require acceptance by the appropriate authority.



(c) Where the appropriate authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

(4) The employee, who has elected to retire under sub-rule (2) or sub-rule (3) and has given the necessary notice to that effect to the appropriate authority, shall be precluded from withdrawing his notice except with the specific approval of the appropriate authority:

Provided that the request for withdrawal shall be made before the intended date of his retirement.

Note 1.—An employee may make a request, in writing, to the appropriate authority to accept notice of less than three months giving reasons therefor and such a request for the curtailment of the period of notice shall be considered on merit and if the appropriate authority is satisfied that such curtailment will not cause any administrative inconvenience it may relax the requirement of notice of three months on the condition that the employee shall not apply for commutation of a part of his pension before the expiry of the notice period of three months.

8. In regard to the first question, it is manifest from a bare reading of the Premature Retirement Rules, that Rule 3(3)(a) stipulates that an employee on completion of 20 years may retire from service after furnishing a notice of 03 months. Rule 3(3)(c) provides that in the event the competent authority does not refuse to grant permission for retirement before the expiry of the period specified in the application, the retirement would become effective from the date of expiry of the period specified in the notice.

9. A Division Bench of this Court in ***Bhushan Lal Malhotra (supra)***, had rejected the argument of the appellant-state that the notice of voluntary retirement requires acceptance by the appropriate authority. It was also held that a perusal of clause (c) shows that if the appropriate authority allows three months' period to lapse then the retirement shall become effective from the date of expiry of the said period. The respondent therein had completed about 22 years of service



when he applied for voluntary retirement and was fully eligible for premature retirement. The relevant extract of the judgment is reproduced hereunder:-

“Learned Single Judge then opined that the requirement of acceptance of request for ‘voluntary retirement’ in the case of an employee who has completed 20 years’ service does not clothe the appropriate authority with an absolute power to act arbitrarily or at whims and fancies. The plea that the writ petitioner had not completed 20 years ‘regular service’ was also raised before the learned Single Judge by the appellants. In that regard, it has been found that the matter is no longer res integra and covered by the Division Bench judgment of this Court in the case of Dr. Anil Kumar Saluja v. State of Punjab and others (CWP No. 12179 of 2008, decided on 1.8.2008). Accordingly, the writ petition has been allowed. in the same terms. It follows that the order dated 19.01.2009 (Annexure P11) stood quashed and a direction was issued to the appellant-State of Punjab to pass an appropriate order for voluntary retirement in respect of writ petitioner-respondent within a period of two months from the date of receipt of a certified copy of that order.

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So far as the plea of interpretation of Rule 3 of the Rules is concerned, it would first be necessary to examine Rule 3(3) of the Rules, which is applicable to the facts of the present case and the same reads as under:-

“3(3)(a) At any time after any employee has completed twenty years of qualifying service, he may, by giving notice of not less than three months in writing to the appropriate authority retire from service.

(b) The notice of voluntary retirement given under this sub-rule shall require acceptance by the appropriate authority.

(c) Where the appropriate authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.”

A perusal of the aforesaid Rule shows that an employee after completing 20 years of qualifying service may serve a notice of not less than three months to the appropriate authority expressing his intention to retire from service on the expiry of the three months. According to Clause (b), the notice of retirement given under Clause (a) requires acceptance by the appropriate authority, which is



mandatory. A perusal of the Clause (c) shows that if the appropriate authority allows three months' period to lapse then the retirement shall become effective from the date of expiry of the said period.

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We cannot accept the contention that requirement of permission in the Rule is mandatory particularly when Clause (c) of Rule 3 says that if appropriate authority has not refused the permission for retirement before the expiry of the 90 days period then the retirement become effective from the date of expiry of the said period, Clause (c), in fact, takes away mandatory character of the Rule. Therefore, the argument that the State can put up any ground for rejecting the prayer of an employee does not commend itself to us. For the reasons aforementioned, the appeal fails and the same is dismissed.”

10. The aforementioned Rule 3 of the Premature Retirement Rules is *pari materia* to Rule 5.32(B) of the Punjab Civil Services Rules (Vol. II) (As applicable to Haryana State), which was under consideration of the Supreme Court in the case of *State of Haryana vs S.K. Singhal, (1999) 4 SCC 293*. The Supreme Court after referring to its judgments in *Dinesh Chandra Sangma v. State of Assam, (1977) 4 SCC 441* and *B.J. Shelat v. State of Gujarat, (1978) 2 SCC 202*, held as under:

“6. The said rule 5.32(B) of the Punjab Civil Services Rules (Vol. II) reads as follows:

“5.32(B)(1) At any time a government employee has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority retire from service. However, a government employee may make a request in writing to the appointing authority to accept notice of less than three months giving reason therefor. On receipt of a request, the appointing authority may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority may relax the requirement of notice of three months on the condition that the government employee shall not apply for commutation



of a part of his pension before the expiry of the period of notice of three months.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority subject to Rule 2.2 of the Punjab Civil Services Rules Vol. II:

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in sub-rule (1) supra, the retirement shall become effective from the date of expiry of the said period”

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9. *The employment of government servants is governed by rules. These rules provide a particular age as the age of superannuation. Nonetheless, the rules confer a right on the Government to compulsorily retire an employee before the age of superannuation provided the employee has reached a particular age or has completed a particular number of years of qualifying service in case it is found that his service has not been found to be satisfactory. **The rules also provide that an employee who has completed the said number of years in his age or who has completed the prescribed number of years of qualifying service could give notice of, say, three months that he would voluntarily retire on the expiry of the said period of three months. Some rules are couched in language which results in an automatic retirement of the employee upon the expiry of the period specified in the employee's notice. On the other hand, certain rules in some other departments are couched in language which makes it clear that even upon expiry of the period specified in the notice, the retirement is not automatic and an express order granting permission is required and has to be communicated.** The relationship of master and servant in the latter type of rules continues after the period specified in the notice till such acceptance is communicated; refusal of permission could also be communicated after 3 months and the employee continues to be in service. **Cases like Dinesh Chandra Sangma v. State of Assam, B.J. Shelat v.State of Gujarat and Union of India v. Sayed Muzaffar Mir belong to the former category where it is held that upon the expiry of the period, the voluntary retirement takes effect automatically as no order of refusal is passed within the notice period.** On the other hand *H.P. Horticultural Produce Marketing & Processing Corpn. Ltd. v. Suman Behari Sharma* belongs to the second category where the bye-laws were interpreted as not giving an option “to retire” but only provided a limited right to “seek” retirement thereby implying the need for a consent of the employer even if the period of the notice has elapsed. We shall refer to these two categories in some detail.*



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13. Thus, from the aforesaid three decisions it is clear that **if the right to voluntarily retire is conferred in absolute terms as in Dinesh Chandra Sangma case by the relevant rules and there is no provision in the 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* case and as in *Sayed Muzaffar Mir* case the authority concerned is empowered to withhold permission to retire if certain conditions exist, viz., in case the employee is under suspension or in case a departmental enquiry is pending or is contemplated, the mere pendency of the suspension or departmental enquiry or its contemplation does not result in the notice for voluntary retirement not coming into effect on the expiry of the period specified. What is further needed is that the authority concerned must pass a positive order withholding permission to retire and must also communicate the same to the employee as stated in *B.J. Shelat* case and in *Sayed Muzaffar Mir* 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 acceptance should be treated as amounting to withholding of permission.**

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18. **In the case before us sub-rule (1) of Rule 5.32(B) contemplates a “notice to retire” and not a request seeking permission to retire.** The further “request” contemplated by the sub-rule is only for seeking exemption from the 3 months' period. The proviso to sub-rule (2) makes a positive provision that **“where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in sub-rule (1), the retirement shall become effective from the date of expiry of the said period.** The case before us stands on a stronger footing than *Dinesh Chandra Sangma* case so far as the employee is concerned. As already stated Rule 2.2 of the Punjab Civil Services Rules Vol. II only deals with a situation of withholding or withdrawing pension to a person who has already retired.”

11. Indubitably, the respondent had rendered 24 years of service and therefore, was eligible to seek premature retirement. The competent authority did not pass any order within a period of three months as stipulated in Rule 3(3)(c) and therefore, in any event, the application of the respondent for voluntary retirement



is to be construed as having been accepted. The Director, Medical Education and Research, by order dated 08.10.2015 (Annexure P-9) rejected the application for voluntary retirement almost 11 months after it had been received. Moreover, the appellants are stated to have issued the charge-sheet only on 14.03.2016 and without holding any inquiry as stipulated in the Rules, in a rather unusual manner, had passed the order treating him as absent from duty since 18.11.2014 and then deeming him to have resigned from the date of his absence.

12. It is the case of the appellants that the inquiry was conducted *ex-parte* as the respondent did not participate and the *ex-parte* proceedings were concluded. However, the same has been controverted by the counsel for the respondent, by submitting that no Inquiry Officer was ever appointed in the matter nor was any show cause notice issued to him regarding the proposed punishment nor the copy of the report of the Inquiry officer was furnished to him. Be that as it may, when the respondent had submitted the application seeking voluntary retirement upon completion of 24 years of service and no order was passed within a period of three months, we have no hesitation in holding that, in view of the above mentioned judgments, the application is deemed to have been accepted by the competent authority in terms of Rule 3(3)(c) of the Punjab Civil Services (Premature Retirement) Rules, 1975.

13. We now proceed to examine whether the appellant-State is deemed to have acquiesced to the act of the respondent in not giving notice of three months as required under the Premature Retirement Rules, by encashing the demand draft for three months' salary. It is true that the competent authority had not passed an order accepting the request of the respondent for the curtailment of the period of the notice. However, the appellants had encashed the said demand draft. Respondent had submitted his application



seeking premature retirement, along with the demand draft of salary of three months in lieu of the notice period on 18.11.2014. The demand draft had been encashed within a month of its receipt. Although, the respondent was enjoined to furnish a three months notice as stipulated in the Rules, but the factum of his submitting the demand draft and the prompt encashment of the same by the appellants is indicative of deemed acceptance of the request of the respondent for curtailment of the period of notice. Therefore, this question is also answered in favour of the respondent.

14. In view of the above, we do not find any illegality in the impugned judgment of the learned Single Judge. The Letters Patent Appeal stands dismissed.

15. All pending miscellaneous application(s) shall also stand disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

29.07.2025

Sapna

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