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

**CM-9199-C-2014 in/and
RSA-3975-2014 (O&M)
Date of Decision : 17.11.2017**

The Haryana State and others

..... Appellants

Versus

Satya Bhama LR. of Brahm Dutt

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Anil Mehta, D.A.G., Haryana
for the appellants.

Mr. Anil Ghanghas, Advocate
for the respondent.

AJAY TEWARI, J. (ORAL)

This is an application for condonation of delay of 3630 days in filing the appeal. The impugned judgment is dated 17.05.2004 while the appeal was filed after 10 years and 2 months on 24.07.2014. It is disclosed in the application for condonation of delay that after the copy of judgment dated 17.05.2004 was received the Legal Remembrancer had issued advice dated 18.06.2004 that it was not a case fit for appeal. Nine years later on i.e. on 21.06.2013 the Principal Secretary to the Haryana School Education Department, Chandigarh directed the concerned officials to prepare the

appeal and it is thereafter that the action was taken and ultimately the appeal

was filed as mentioned above on 24.07.2014.

No doubt as a rule this Court has always attempted not to let substantive rights be defeated by limitation and has made further allowances in the case of the Government but in the present case the facts are too stark. There is no explanation why, how and what circumstances suddenly the Principal Secretary woke up after 9 long years and decided to file the appeal.

Learned Deputy Advocate General has vehemently argued that the impugned judgment is clearly illegal because the husband of the respondent had voluntarily resigned after 17 years of service and was thus not entitled for pension. As per him, the Government employee who is retired compulsorily is entitled for pension after 10 years but to earn the right to retire voluntarily with the entitlement of pension at least 20 years of service is necessary. Moreover, having resigned in the year 1968 the civil suit which was filed after 33 years was itself delayed. As regards the delay, it would be apposite to notice here that the lower appellate court has held that pension is a recurring right and keeping in view the delay has directed payment of pension only from the date of filing of a civil suit i.e. 2001.

Counsel for the respondent also informs me that the original plaintiff died during the pendency of the civil suit i.e. before 2003 and ultimately the substantive relief which was granted was family pension to the wife of the deceased who has also since died in the year 2014.

Without endorsing the finding of law given by the lower appellate court and in view of the facts mentioned above, I do not deem it appropriate to condone the delay.

Consequently, the application for condonation of delay and the appeal is dismissed.

November 17, 2017
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(AJAY TEWARI)
JUDGE

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