IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

LPA No. 502 of 2024
Decided on: 30th December, 2024

Vijay Kumar and another **....Appellants.**

Versus

State of H.P and others **...Respondents.**

Coram
Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice
Hon'ble Mr. Justice Satyen Vaidya, Judge

Whether approved for reporting? [1]

For the Appellants: Mr. Arush Matlotia, Advocate.

For the respondents: Mr. Anup Rattan, Advocate General with Mr. Sidharth Jalta, Deputy Advocate General.

G.S. Sandhawalia, Chief Justice *(oral)*

CMP(M) No.1731 of 2024

This application is for condonation of delay in filing the LPA which is barred by 116 days'. The application is allowed in view of the averments made in the application, which are duly supported by the affidavit of the appellants.

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2. Consideration in the main appeal is to the judgment of the learned Single Judge passed in CWP No.2513 of 2021 dated 06.03.2024. The learned Single Judge dismissed the Writ petition

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[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

on the main relief, whereby the directions were sought to quash the order(s) dated 26.02.2021 and 27.03.2021 (Annexures P-2 & P-4 in the Writ Petition), wherein, both the appellants who are husband and wife were allowed to take pre-mature retirement from service w.e.f. 28.02.2021 as per their request. The further direction was sought to permit the appellants/petitioners to discharge their duties as Lecturer (School Cadre) in the respective subjects of Economics and English, and to reinstate the appellants/petitioners in service and also regularize the period from the date of pre-mature retirement till the date of their reinstatement.

3. The learned Single Judge was of the considered opinion that the request has been made on 30.07.2020 and the same had been acceded to by the competent authorities. No request had been sought seeking withdrawal of the earlier request made by both the husband and wife for pre-mature retirement merely because there was a delay as such and the same was to be acceded to by October 2020 and on account of the fact of the delay on behalf of the Government the writ petition apparently was filed.

4. Nothing could be pointed out regarding any legal right as such under any statute that if the State delayed the request of the petitioners seeking premature retirement they would be entitled to

take back their earlier request which was not to be acted upon.

5. Apparently, in the writ petition also, it is mentioned that the appellants have two daughters of young age and it was a decision which is apparently taken when both husband and wife in unison applied for pre-mature retirement, keeping in view their family circumstances. The reasons as such which have been pointed out from the representation apparently cannot find much favour with this Court. The legal right as such would be only, if they had before the three months' notice period, withdrawn their request for pre-mature retirement. They having voluntarily applied, now they cannot turn around and be permitted to blow hot and cold. In such circumstances, the order passed by learned Single Judge does not suffer from any infirmity which should require interference and the appeal is dismissed *in limine*.

(G.S. Sandhawalia)
Chief Justice

30th December, 2024
(priti)

(Satyen Vaidya)
Judge