

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
Neutral Citation No. 2024:PHHC:038047-DB**

(101) **LPA-748-2022 (O&M)**
Decided on : 18.03.2024

Shakuntla SharmaAppellant(s)

Versus

State of Punjab and othersRespondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr. Manu K. Bhandari, Advocate and
Mr. Rohit Kataria, Advocate for the appellants.

Mr. Saurav Khurana, Addl. AG, Punjab.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-1792-LPA-2022

Application for condonation of delay of 295 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 295 days in filing the appeal is condoned.

CM stands disposed of.

LPA-748-2022 (O&M)

Consideration in the present letters patent appeal is sought of the judgment of the learned Single Judge dated 15.09.2021 passed in **CWP-23341-2016 ‘Shakuntla Sharma Vs. State of Punjab and others’**, wherein the learned Single Judge dismissed the writ petition by noting that the Government employee who was working as a Teacher had conveniently absented from duty from July, 1989 till her superannuation

on 31.05.2003. Therefore, on having abandoned her job, keeping in view Rule 3.17-A(e) of the Punjab Civil Services Rules, the Learned Single Judge came to the conclusion that it would amount to forfeiture of past service. It was also noticed that even prior to that there were 33 instances of absence from the period 05.03.1966 to 14.07.1986 and a table as such was made by the Learned Single Judge.

2. A perusal of the said table would go on to show that there were several occasions of absence for the periods of more than 4 months, which would further goes on to show the lack of dedication towards the employment by the teacher, who was most needed in the school. The challenge in the writ petition was to the order passed on 25.02.2016 (Annexure P-24) by the District Education Officer, Roop Nagar, wherein her claim had been denied while placing reliance upon Rule 3.17(2) that the services of the employee had been forfeited from 1986. The benefit of GPF was directed to be released to her.

3. The claim as such was on account of the fact that she had joined as a temporary Teacher on 23.12.1965 and served till February, 1969 and then appointed as JBT Teacher on regular basis and posted at various places and had taken charge in the Government Primary School, Baloli Block, Anandpur Sahib on 10.06.1989. She had apparently in July, 1989 left for Nasik (Maharashtra) where her husband was employed and only returned in October, 1989. It was alleged that she was not permitted to join her duties and, thereafter, she went back to Nasik due to illness of her husband.

4. The rule in question 3.17(2) reads as under:-

“An interruption in the service of Government Employee caused by willful absence from duty or un-authorized absence without leave shall entail the forfeiture of the past service.”

5. Apparently, the writ petitioner had abandoned her rights and it was only in the year 2012 she filed **CWP No.5278 of 2012**, wherein a direction was passed to consider her representation by passing a speaking order on 10.04.2015 (Annexure P-22). The cause of action had long died and the Apex Court has already depreciated the issue of reviving the cause of action. The Apex Court in **The Government of India and another Vs. P. Venkatesh 2019(15) SCC 613** has time and again held that ‘dispose of the representation’ mantra creates only a fresh round of litigation. The cause of the appellant had long died prior to retirement having not been raised during the period of her service. The rejection of the representation, thus, would not revive the cause of action. Therefore, we are of the considered opinion that the order as such of the learned Single Judge suffers from no infirmity.

6. Reliance can also be placed upon the judgment passed in **Vijay S. Sathaye Vs. Indian Airlines Ltd. & others, 2013 (10) SCR 73**, wherein it was held that absence for a long period would amount to voluntarily abandonment and bonds of service would come to an end automatically, without any order to be passed by the employer. The abandonment of service was held to be a consequence of unilateral action on behalf of the employee and the employer has no role in it and such act cannot be termed as retrenchment from service.

7. In such circumstances, the said principle would squarely apply in the present case. The specific stand of the respondents in their reply was also that the writ petitioner was only entitled for payment of

Rs.8,010/- regarding General Provident Fund, which had already been submitted in the Treasury. On account of the petitioner's absence, the studies of the poor village students were affected and being a Government employee, it was duty of the writ petitioner to attend her duties regularly or get her leave sanctioned as per rules form the competent authority, however, she had never reported on her duty after 13.07.1986. She had attained the age of 58 years during the year 2003 and then approached this Court in 2012 to get directions to decide the representation by the respondents for her retiral benefits after a long gap, which also suffers from delay and laches.

8. Thus, for the additional reasons recorded above, we are of the considered opinion that the Learned Single Judge was well justified in not entertaining the writ petition at a belated stage. Resultantly, there is no merit in the present letters patent appeal and the same is hereby dismissed in limine. All the pending application(s) including CM-561-LPA-2024 also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

18.03.2024
Naveen

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	√Yes	No
Whether Reportable :	Yes	√No