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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 20th March, 2025

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CM(M) 868/2023 & CM APPL. 27428/2023
SHASHIKANT

.....Petitioner

Through: Mr. Dikshant Khanna, Advocate.

versus

BANK OF BARODA

.....Respondent

Through: Mr. Kush Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Learned counsel for respondent appears on advance notice and submits that he is ready with the final arguments.
2. Petitioner was an employee of defendant bank (respondent herein) and as per the averments appearing in the plaint, the plaintiff resigned and sent communication in this regard on 03.08.2021.
3. The relief sought in the abovesaid suit is that it be declared that his such resignation was lawful and that the notice issued by Bank of Baroda/respondent, accusing him, being on unauthorized absence, be declared unlawful, void and of no consequences.
4. Besides the above, various other reliefs have also been sought in the suit.
5. The petitioner is aggrieved by order dated 16.02.2023 whereby the learned Trial Court has condoned the delay in filing the written statement and



permitted the written statement to be taken on record.

6. This Court has gone through the abovesaid order and as per bare observations recorded therein, the plaintiff was directed to supply documents to the defendant on 27.04.2022. Thus, if the period of limitation is reckoned from 27.04.2022, the initial period of 30 days would have expired on 26.05.2022. Admittedly, as per Order VIII Rule 1 CPC, the period of filing of written statement is 90 days, in all. It is also no longer *res integra* that such period is not mandatory in nature and in appropriate cases, the delay, on sufficient cause being shown, can be condoned.

7. The written statement in the abovesaid suit was, admittedly, filed on 31.08.2022 and taking into account the fact that defendant was otherwise entitled to a period of 90 days, the delay would be hardly of around one month or so.

8. While condoning the delay, the learned Trial Court was of the view that it will not be in the interest of justice to not take such written statement on record and then to decide the matter, without even considering the defense of the defendant.

9. Moreover, the averments made in the plaint and the nature of relief being sought by the plaintiff is of such nature which, even otherwise, necessitates to have response of the defendant bank.

10. It seems that it was with that idea and objective that the learned Trial Court, in the interest of substantial justice and being the Court of first instance, condoned the delay and took the written statement on record.

11. Learned counsel for respondent/defendant bank submits that he has already filed an application under Order XII Rule 6 CPC seeking dismissal of the suit and the arguments have already been heard on such application and



such application is now reserved for orders.

12. Be that as it may, the Court should always make endeavour to decide the case on merits, instead of on technicalities and, resultantly, finding no reason to invoke supervisory powers under Article 227 of the Constitution of India in the present case where there is mere exercise of discretionary power and there is nothing to indicate any illegality or perversity, the present petition, along with pending application, stands disposed of.

(MANOJ JAIN)
JUDGE

MARCH 20, 2025/ss/js