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

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*Judgment reserved on: 23.02.2026**Judgment pronounced on: 28.04.2026**Judgment uploaded on: 29.04.2026*

+ W.P.(C) 2491/2026, CM APPL. 12079/2026, CM APPL. 12080/2026 and CM APPL. 12081/2026

SHISHIR PRIYADARSHI .....Petitioner

Through: Mr. Vimal Kirti Singh, Adv.

versus

UNION OF INDIA AND ANR .....Respondents

Through: Mr. Syed Abdul Haseeb, CGSC  
along with Ms. Nasreen  
Khatoon, GP for R-1.

+ W.P.(C) 2498/2026, CM APPL. 12104/2026, CM APPL. 12105/2026 and CM APPL. 12106/2026

ATUL BAGAI .....Petitioner

Through: Mr. Vimal Kirti Singh, Adv.

versus

UNION OF INDIA AND ANR .....Respondents

Through: Mr. Farman Ali, CGSC along  
with Ms. Usha Jamnal, Adv. for  
R-1.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

### **J U D G M E N T**

**ANIL KSHETARPAL, J. :**

### **INTRODUCTION:**

1. The Petitioner, by way of the present Petition filed under Article 226 of the Constitution of India, seeks the issuance of a Writ in the nature of *Certiorari* to quash the final order dated 15.10.2025 passed by the learned Central Administrative Tribunal, Principal



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Bench, New Delhi [hereinafter referred to as 'CAT'] in O.A. Nos.490/2016 and 497/2016.

2. With the consent of learned counsel representing the parties, two connected Writ Petitions involving an identical issue shall stand disposed of by this common order. In fact, the CAT also disposed of two O.As by a common order *vide* treating the case of *Shishir Priyadarshi* as the lead case.

3. The central question which arises for consideration is whether the Petitioners can be held to have validly sought voluntary retirement under Rule 16(2) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958, so as to defeat the action taken by the Respondents under Rule 7(2)(c) of the All India Services (Leave) Rules, 1955 declaring them as deemed to have resigned from service on account of prolonged unauthorized absence. This is in light of the fact that Shishir Priyadarshi and Atul Bagai were absent from their respective duties effectively from 01.06.2006 and 23.08.2005 respectively.

**BRIEF FACTS IN W.P.(C) 2491/2026:**

4. In order to comprehend the issues involved in the present case, the relevant facts are being noticed from W.P.(C) 2491/2026, which is being treated as the lead case.

5. The Petitioner is a member of the 1980 batch of the Indian Administrative Service, allotted to the Uttar Pradesh cadre.



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6. On 17.01.2001, the Appointment Committee of the Cabinet ('ACC') approved the proposal for grant of cadre clearance to the Petitioner for a foreign assignment with the South Centre, Geneva, supported by the United Nations Development Programme ('UNDP'), for a period of two years commencing from January 2001, under Foreign Service terms, in relaxation of the requirement of a cooling-off period between two long-term foreign assignments.

7. Upon completion of the initial tenure, the Petitioner sought extension, which was granted, and his deputation stood extended up to 31.05.2006.

8. Prior to the expiry of the extended tenure, the Petitioner submitted a request dated 25.04.2006 seeking further extension for a period of two years with effect from 01.06.2006. The Department of Personnel and Training ('DoPT') sought the comments of the State Government of Uttar Pradesh in this regard.

9. The Petitioner reiterated his request for extension *vide* communication dated 13.10.2006. However, the ACC did not approve the proposal for further extension. This decision was communicated to the Petitioner on 21.03.2007, with a direction to report back to his parent cadre within one month, failing which appropriate action would follow.

10. Despite the aforesaid direction, the Petitioner did not report back to duty. The State Government issued communications, including letter dated 08.07.2007, directing him to join within one month, failing which disciplinary proceedings would be initiated.



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11. *Vide* communication dated 30.07.2007, the Petitioner indicated that he would join by 30.08.2007. The Petitioner, however, submitted a joining report only on 01.09.2008.

12. Shortly thereafter, on 14.09.2008, the Petitioner applied for grant of study leave up to the end of 2009. Clarification was sought from him on 31.12.2008 as to whether the proposed research work would be undertaken within India or abroad.

13. In response, *vide* communication dated 05.02.2009, the Petitioner stated that his research work may be undertaken either within the country or outside and that he would be working closely with the World Trade Organization ('WTO'), Geneva.

14. The record reflects that the Petitioner continued to remain abroad and did not effectively resume duties in his parent cadre. On 10.08.2010, the State Government issued a notice requiring the Petitioner to join within 15 days, failing which disciplinary proceedings would be initiated, noting that his continued absence was in violation of the applicable service rules.

15. In response, *vide* communication dated 15.09.2010, the Petitioner expressed his inability to join within the stipulated period and indicated that he may report back by December 2010. In the alternative, he requested that he be granted voluntary retirement from the Indian Administrative Service with immediate effect. The relevant part of the communication sent by the Petitioner on 15.09.2010 is extracted as under:

*"Secondly, I would also like to indicate that it will be impossible for me to join the State Government within 15 days as advised.*



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*This is far too little a time period for me to wind up my work here, get all my clearances, surrender my apartment, ship all my household goods, and complete all the other necessary formalities. However, I can try and wind up this work in the next few months and try to report to the State Government in December 2010. I would therefore be extremely grateful if this permission is please accorded to me. However, in case it is not possible for the Government to grant me this additional time, then I would request that I may please be granted VRS from the Indian Administrative Service with immediate effect."*

16. Consequently, disciplinary proceedings were initiated against the Petitioner on 18.10.2010 under the All India Services (Discipline and Appeal) Rules, 1969.

17. During this period, the Petitioner also submitted a communication dated 02.12.2010 seeking regularization of his absence for the period from 01.06.2006 onwards by way of earned leave/half pay leave, study leave and extraordinary leave, and indicated his intention to report back to his parent cadre on 16.12.2010.

18. Subsequently, *vide* communication dated 22.12.2010, the Government of India advised that the disciplinary proceedings be dropped and that the case be considered under Rule 7(2)(c) of the All-India Services (Leave) Rules, 1955. For the sake of convenience, the relevant provision has been reproduced as under: -

**Rule 7 of the All India Service (Leave) Rules, 1955 is read as follows:**

*"maximum period of absence from duty-*

*(1) No member of the Service shall be granted leave of any kind for a continuous period exceeding five years.*

*(2) A member of the Service shall be deemed to have resigned from the service if he -*

*(a) is absent without authorisation for a period exceeding one year from the date of expiry of sanctioned leave or permission, or*



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*(b) is absent from duty for a continuous period exceeding five years even if the period of unauthorized absence is for less than a year, or*

*(c) continues of foreign service beyond the period approved by the Central Government:*

*Provided that a reasonable opportunity to explain the reason for such absence or continuation of foreign service shall be given to the member of the Service before the provisions of this sub-rule are invoked."*

19. The Petitioner continued to address representations to the authorities, including communications dated 01.08.2011, 11.11.2011 and 29.12.2011, seeking regularization of his absence and reiterating his request for voluntary retirement.

20. At this stage, it would be apposite to notice the statutory provision governing voluntary retirement. Rule 16(2) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958 reads as under:

*"(2) A member of the Service may, after giving at least three months' previous notice in writing to the State Government concerned and the Central Government, retire from service:*

*Provided that no member of the Service under suspension shall retire from service except with the specific approval of the Central Government:*

*Provided further that the Central Government may, in public interest, withhold permission to a member of the Service who seeks to retire under this sub-rule:*

*Provided also that the Central Government may waive the requirement of notice."*

21. In the meanwhile, the Respondents issued a notice dated 12.10.2011 under Rule 7(2)(c) of the AIS (Leave) Rules directing the Petitioner to rejoin duty. The Petitioner did not comply with the said notice.



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22. The record further reflects that during this period, the Petitioner applied for senior positions in public sector undertakings, including the post of Chairman and Managing Director in Coal India Limited and other entities, and such applications were forwarded by the State Government.

23. The Petitioner continued to remain absent and did not report back to his parent cadre. On 19.03.2013 and subsequent occasions, he was again called upon to join duty.

24. Thereafter, a final opportunity was granted to the Petitioner *vide* communication dated 22.08.2014 under Rule 7(2)(c) of the AIS (Leave) Rules, calling upon him to submit his explanation and report for duty, failing which the matter would be referred to the Government of India for a final decision.

25. In response, *vide* communication dated 22.09.2014, the Petitioner reiterated that he had already applied for voluntary retirement and requested that the same be accepted.

26. The Petitioner, however, did not report back to duty.

27. Ultimately, by notification dated 27/28.08.2015, the Competent Authority declared that the Petitioner shall be deemed to have resigned from the Indian Administrative Service with effect from 01.06.2006 in terms of Rule 7(2)(c) of the AIS (Leave) Rules.

28. The Petitioner challenged the aforesaid notification before the Central Administrative Tribunal by filing an Original Application. A



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similar challenge was laid by the connected Petitioner in W.P.(C) 2498/2026.

**BRIEF FACTS IN W.P.(C) 2498/2026:**

29. The Petitioner in W.P.(C) 2498/2026, Shri Atul Bagai, was an officer of the Indian Administrative Service, 1985 batch, allotted to the Uttar Pradesh cadre. With cadre clearance granted by Respondent No. 1 in July 2000, the Petitioner joined UNEP, DTIE, Paris as a Training Officer with effect from 16.08.2000. In 2002, he was posted to Bangkok as Regional Officer (Networking) at the UN Regional Office for Asia and the Pacific. On 11.03.2006, Respondent No. 2 issued a letter directing the Petitioner to rejoin his parent cadre, referring to an earlier communication dated 09.12.2005. The Petitioner's case is that the letter dated 09.12.2005 was never received by him and came to his knowledge only in 2010. On 12.06.2007, Respondent No. 1 declined to grant further extension of cadre clearance and directed that appropriate action be initiated.

30. The Petitioner rejoined his parent cadre on 05.12.2008 but before he could be given the posting, he applied for one year's paid leave on 06.12.2008 and, on 05.11.2009, sought further extension of cadre clearance up to 31.10.2011 along with two years' extraordinary leave. By letter dated 30.08.2010, Respondent No. 2 directed the Petitioner to report for duty within 15 days, noting that he had been absenting himself from duty without authorization.

31. In response, by letter dated 15.09.2010, the Petitioner sought time until December 2010 to report back and, in the alternative,



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sought voluntary retirement under Rule 16(2) of the AIS (DCRB) Rules, 1958 in the event that additional time was not granted.

32. Once again the Petitioner reported back to duty on 22.11.2010, but before he could be assigned the post, he applied for grant of leave from 29.11.2010 to 15.01.2011 and thus, was not available for posting with the State Government. On 16.07.2014, Respondent No. 2 issued a fresh show-cause notice under Rule 7(2) of the AIS (Leave) Rules, 1955 for unauthorized absence.

33. By order dated 18.11.2015, Respondent No. 1 treated the Petitioner as having "deemed resigned" from service with effect from 24.08.2005 under Rule 7(2)(c) of the AIS (Leave) Rules, 1955. The Petitioner filed O.A. No. 497/2016 before the learned CAT, seeking quashing of the said order and a declaration that he had validly stood voluntarily retired on 15.12.2010 with full consequential pensionary and retiral benefits. The CAT dismissed the O.A. by the common impugned order dated 15.10.2025.

34. Being aggrieved by the dismissal of both the Original Applications by the Tribunal by a common order, the present Petitions have been filed.

### **CONTENTIONS ON BEHALF OF THE PETITIONERS:**

35. Learned counsel for the Petitioners submits that the impugned action declaring the Petitioners to have deemed to have resigned from service is wholly unsustainable in law, inasmuch as the Petitioners had already sought voluntary retirement in terms of Rule 16(2) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958.



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36. It is contended that Rule 16(2) does not mandate any formal acceptance by the competent authority for voluntary retirement to take effect. Once a notice of voluntary retirement is given in terms of the Rule, the retirement becomes effective automatically upon expiry of the prescribed notice period.

37. The learned counsel submits that the Petitioner had, *vide* communication dated 15.09.2010, clearly expressed his intention to seek voluntary retirement. The said request was reiterated through subsequent communications dated 11.11.2011 and 29.12.2011. It is argued that these communications, read cumulatively, constitute a valid notice under Rule 16(2).

38. It is further submitted that the Respondents failed to take any decision on the Petitioner's request for voluntary retirement within a reasonable period, and in any case within the statutory notice period. In such circumstances, the voluntary retirement must be deemed to have come into effect upon expiry of the notice period.

39. The Petitioners contend that once the voluntary retirement stood effected, the Respondents could not have invoked Rule 7(2)(c) of the AIS (Leave) Rules to declare them as deemed to have resigned. The impugned notification is, therefore, without jurisdiction.

40. Learned counsel further submits that the action of the Respondents is arbitrary and violative of Articles 14 and 21 of the Constitution of India, inasmuch as the Petitioners were not only denied the benefit of voluntary retirement but were also subjected to the stigmatic consequence of deemed resignation.



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41. In support of the aforesaid submissions, reliance is placed upon the following judgments to contend that voluntary retirement becomes effective automatically upon expiry of the notice period and does not require formal acceptance:

- i. ***Dinesh Chandra Sangma v. State of Assam*<sup>1</sup>;**
- ii. ***B.J. Shelat v. State of Gujarat*<sup>2</sup>;**
- iii. ***Union of India v. Sayed Muzaffar Mir*<sup>3</sup>;**
- iv. ***State of Haryana v. S.K. Singhal*<sup>4</sup>;**
- v. ***Union of India v. Arun Mishra & Anr.*<sup>5</sup>;**
- vi. ***Himachal Pradesh Horticultural Produce Marketing & Processing Corporation Ltd. v. Suman Behari Sharma*<sup>6</sup>**

42. It is, thus, submitted that the Impugned Order declaring deemed resignation deserves to be set aside and the Petitioners be treated as having voluntarily retired from service.

### **CONTENTIONS ON BEHALF OF THE RESPONDENTS:**

43. *Per contra*, learned counsel appearing for the Respondents submits that the Petitioners remained on unauthorized absence from 01.06.2006 onwards, despite clear denial of extension of their foreign assignment and repeated directions to report back to their parent cadre.

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<sup>1</sup>(1977) 4 SCC 441

<sup>2</sup>(1978) 2 SCC 202

<sup>3</sup>1995 Supp (1) SCC 76

<sup>4</sup>(1999) 4 SCC 293

<sup>5</sup>W.P.(C) 7917/2020 decided by the Delhi High Court on 05.07.2023.

<sup>6</sup>(1996) 4 SCC 584



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44. It is submitted that the decision of the ACC declining further extension was duly communicated to the Petitioners on 21.03.2007, along with a direction to join within one month. Despite this, the Petitioners in both the Writ Petitions failed to comply and continued to remain abroad without sanction.

45. The Respondents contend that the communications relied upon by the Petitioners do not constitute a valid notice of voluntary retirement under Rule 16(2). In particular, the communication dated 15.09.2010 is stated to be conditional and in the alternative, and therefore does not reflect a clear and unequivocal intention to retire.

46. It is further submitted that Rule 16(2) requires a notice of not less than three months. The Petitioners neither furnished such notice nor complied with the statutory requirements. In the absence of a valid notice, the question of deemed acceptance does not arise.

47. The Respondents emphasize that the Petitioners adopted inconsistent and shifting stands. At various points of time, they sought extension of deputation, applied for different kinds of leave, expressed willingness to join at a future date, and simultaneously sought voluntary retirement. Such conduct, it is submitted, disentitles them from claiming any equitable relief.

48. It is also contended that the Petitioners were granted repeated opportunities to rejoin service, including notices issued under Rule 7(2)(c) of the AIS (Leave) Rules, namely the notice dated 12.10.2011 and the final opportunity dated 22.08.2014. Despite this, the Petitioners failed to report back.



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49. The Respondents further submit that, acting on the advice of the Government of India, disciplinary proceedings initially initiated were dropped, and instead action was taken under Rule 7(2)(c), which specifically provides for deemed resignation in cases of continued unauthorized absence.

50. It is argued that the action of declaring the Petitioners as deemed to have resigned is in strict conformity with the statutory scheme and after affording adequate opportunity to the Petitioners.

51. Learned counsel also points out that during the period of unauthorized absence, the Petitioners were actively pursuing other engagements, including applying for senior positions in public sector undertakings, which demonstrates lack of bona fide intention to resume service.

52. It is, therefore, submitted that the Petitioners have failed to establish any legal right to claim voluntary retirement, and the impugned action does not suffer from any illegality or arbitrariness warranting interference under Article 226 of the Constitution of India.

### **ANALYSIS AND FINDINGS:**

53. At the outset, it is required to be noted that the Petitioner was, undisputedly, not granted extension of his foreign assignment beyond 31.05.2006. The decision of the Appointment Committee of the Cabinet declining further extension was unequivocally communicated to the Petitioner on 21.03.2007, along with a clear direction to report back to his parent cadre within one month. The consequence of non-compliance was also explicitly indicated, namely that his overstay



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would be treated as unauthorized with effect from 01.06.2006. Despite such clear communication, the Petitioner chose not to rejoin his duties. Although an assurance was extended that he would return by 30.08.2007, the record reveals that even when a joining report was submitted on 01.09.2008, it was immediately followed by an application for study leave, and thereafter the Petitioner continued to remain engaged abroad, including with the World Trade Organization, without securing approval for such continued absence. The sequence of events unmistakably establishes that the Petitioner remained on unauthorized absence from 01.06.2006 onwards.

54. The entire edifice of the Petitioner's case rests on the plea that he had sought voluntary retirement and that such request, not having been expressly rejected within the stipulated period, must be deemed to have been accepted. However, a careful scrutiny of the communication dated 15.09.2010, which is sought to be relied upon as the foundational request for voluntary retirement, reveals that it does not satisfy the requirements of Rule 16(2). The said communication is not an unequivocal notice of voluntary retirement; rather, it is couched in alternative terms. The Petitioner first expresses his inability to join within the time granted and seeks further time to wind up his affairs, indicating that he would attempt to report back by December 2010. It is only in the alternative, and contingent upon refusal of such extension, that a request for grant of voluntary retirement "with immediate effect" is made. Such a conditional and contingent request cannot be construed as a valid notice under Rule 16(2), which contemplates a clear and unambiguous intention to retire, coupled with a notice of not less than three months.



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55. The statutory requirement of notice is not an empty formality. It serves a substantive purpose, enabling the Government to make appropriate administrative arrangements. While the Rule confers discretion upon the Government to waive the notice period, such waiver cannot be presumed in the absence of a valid and unconditional notice. In the present case, not only was the request conditional, it also did not conform to the prescribed notice period. Consequently, the foundational requirement for invoking the doctrine of deemed acceptance does not stand satisfied.

56. The subsequent communications dated 11.11.2011, 29.12.2011 and other representations also do not improve the Petitioner's case. These communications, read holistically, reflect a shifting and inconsistent stand. At one stage, the Petitioner expresses willingness to join; at another, he seeks regularization of absence as leave; and simultaneously presses for voluntary retirement. Even on 29.12.2011, while asserting that he had submitted a joining report, he continued to seek acceptance of voluntary retirement. Such inconsistent positions belie the existence of a clear and unequivocal intention to retire in terms of Rule 16(2). It is, therefore, evident that the Petitioner never submitted a request for voluntary retirement in the manner contemplated under the Rules.

57. In this backdrop, the reliance placed by the Petitioner on judicial precedents laying down that voluntary retirement becomes effective upon expiry of the notice period without formal acceptance is misplaced. Those decisions proceed on the premise that a valid notice in accordance with the applicable rules had been given. In the



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absence of such a valid notice, the question of deemed acceptance does not arise. The Petitioner cannot invoke the benefit of such precedents while simultaneously failing to comply with the statutory preconditions for seeking voluntary retirement.

58. Equally significant is the conduct of the Petitioner throughout the relevant period. Despite repeated communications and directions from the State Government, including warnings that disciplinary proceedings would be initiated, the Petitioner failed to rejoin duty. Notices under Rule 7(2)(c) of the AIS (Leave) Rules were issued, including the initial notice dated 12.10.2011 and the final opportunity granted on 22.08.2014. The Petitioner, however, persisted in remaining abroad and continued to reiterate his request for voluntary retirement instead of complying with the direction to rejoin. The record further indicates that during this period, the Petitioner applied for and pursued appointments to high public sector positions such as Chairman and Managing Director of Coal India Limited, Bharat Heavy Electricals Limited and MMTC, which applications were duly forwarded by the State Government. This conduct reinforces the conclusion that the Petitioner was not genuinely inclined to return to his parent cadre and discharge his duties.

59. The prolonged unauthorized absence, coupled with the failure to respond meaningfully to repeated opportunities to rejoin service, squarely attracted the provisions of Rule 7(2)(c) of the AIS (Leave) Rules. The Respondents, acting upon the recommendation of the Government of India, first dropped the disciplinary proceedings and instead proceeded under the said Rule, thereby affording the Petitioner



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further opportunity to resume duty. Even thereafter, adequate notices and final opportunities were granted. The invocation of Rule 7(2)(c) of the AIS (Leave) Rules, culminating in the declaration that the Petitioner shall be deemed to have resigned from service, cannot be said to suffer from any procedural or substantive infirmity. The Rule 7 of the AIS (Leave) Rules, reads as under:

*“7. Maximum period of absence from duty—(1) No member of the Service shall be granted leave of any kind for a continuous period exceeding five years.*

*(2) A member of the Service shall be deemed to have resigned from the service if he –*

*(a) is absent without authorisation for a period exceeding one year from the date of expiry of sanctioned leave or permission, or*

*(b) is absent from duty for a continuous period exceeding five years even if the period of unauthorized absence is for less than a year, or*

*(c) continues of foreign service beyond the period approved by the Central Government:*

*Provided that a reasonable opportunity to explain the reason for such absence or continuation of foreign service shall be given to the member of the Service before the provisions of this sub-rule are invoked.”*

60. The argument that the Respondents were obliged to either accept or reject the request for voluntary retirement within three months also proceeds on an erroneous assumption that a valid request had been made. In the absence of a request conforming to Rule 16(2), no such obligation arose. The Petitioner cannot, by submitting an equivocal and non-compliant representation, compel the Respondents to treat the same as a valid notice and then rely upon alleged inaction to claim deemed acceptance.



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61. Viewed in its entirety, the factual matrix demonstrates a consistent pattern of unauthorized absence, conditional and non-compliant requests for voluntary retirement, and repeated non-compliance with directions to rejoin duty. The Petitioners were afforded more than adequate opportunity to return to service, yet consciously chose not to do so. The action taken by the Respondents is, therefore, a direct consequence of the Petitioners' own conduct.

**CONCLUSION:**

62. In exercise of jurisdiction under Article 226 of the Constitution of India, this Court is concerned with the legality of the decision-making process. The impugned action does not disclose any arbitrariness, perversity, or violation of statutory provisions. On the contrary, it reflects due adherence to the governing rules and principles of natural justice. The findings returned by the Central Administrative Tribunal, holding that the Petitioners had failed to submit a valid request for voluntary retirement and that the invocation of Rule 7(2)(c) of the AIS (Leave) Rules was justified, do not warrant interference.

63. Accordingly, the present Petitions, along with pending applications, are dismissed.

**ANIL KSHETARPAL, J.**

**AMIT MAHAJAN, J.**

**APRIL 28, 2026/sp/kb**