



2025:DHC:5393-DB



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

+ **W.P.(C) 8933/2025 & CM APPL. 38241/2025**

IDRESH ALI

.....Petitioner

Through: **Mr. Himanshu Gautam, Adv.**

versus

UNION OF INDIA & ORS.

.....Respondents

Through: **Mr. Jagdish Chandra, CGSC**
with **Mr. Sujeet Kumar, Adv.** for UOI along
with **Mr. Ajaypal, Law Officer CRPF,**
Mr. Athurv, Insp CRPF, Mr. Ramniwas
Yadav, CRPF.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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07.07.2025

C. HARI SHANKAR, J.

1. By order dated 30 January 2025, the petitioner has been transferred from the 55 Bn of the CRPF¹ at Delhi to be 153rd Bn at Chinnakodepal, Bijapur, Chhattisgarh. The movement order, requiring the petitioner to move to Bijapur, consequent on the aforesaid transfer order, was issued only on 11 June 2025. In the interregnum, in February 2025, after completing 20 years of service in the CRPF, the petitioner sought voluntary retirement with effect from 31 May 2025. This request was reiterated by another communication in March 2025.

¹ Central Reserve Police Force



Vide Signal dated 2 May 2025, the Competent Authority communicated his desire that the petitioner be relieved to join at Bijapur, in the event they did not proceed on voluntary retirement up to 31 May 2025.

2. It is in these circumstances that the petitioner has approached this Court under Article 226 of the Constitution of India, seeking issuance of appropriate writs, quashing and setting aside the transfer order dated 30 January 2025 and the movement order dated 11 June 2025 and for a direction to the respondents to treat the petitioner as having voluntarily retired from service with effect from 31 May 2025. Consequently, retiral benefits have also been claimed.

3. On the last date of hearing, Mr. Himanshu Gautam, learned Counsel for the petitioner, had placed reliance on the judgment of the Supreme Court in *Tek Chand v Dile Ram*², rendered in the context of the proviso to Rule 48-A(2)³ of the Central Civil Services (Pension) Rules, 1972⁴ and OM⁵ dated 28 February 2022 issued by the

² (2001) 3 SCC 290

³ 48-A. Retirement on completion of 20 years' qualifying service. –

(1) At any time after a government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service:

Provided that this sub-rule shall not apply to a government servant, including scientist or technical expert who is—

(i) on assignments under the Indian Technical and Economic Cooperation (ITEC) Programme of the Ministry of External Affairs and other aid programmes.

(ii) posted abroad in foreign-based offices of the Ministries/Departments.

(iii) on a specific contract assignment to a foreign Government, unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority:

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

⁴ “the 1972 Pension Rules” hereinafter

⁵ Office Memorandum



Department of Personnel and Training. In the context of the proviso to Rule 48A(ii) of the CCS (Pension) Rules⁶, the Supreme Court had held, if an application for voluntary retirement is not accepted within the time provided in the application, the application would be deemed to be accepted.

4. We had adjourned the matter, believing that the 1972 Pension Rules were applicable, as submitted by Mr Gautam. Today, however, Mr. Jagdish Chandra, learned CGSC for the respondents points out that the 1972 Pension Rules could not apply to the present case and that is covered by Rule 43(d)(vi)⁷ of the Central Reserve Police Force Rules, 1955.

5. On being repeatedly queried by the Court as to whether there is any provision in the CRPF Rules, which is akin to the proviso to Rule 48A(ii) of the CCS (Pension) Rules, Mr. Himanshu Gautam seeks to liken proviso (ii) to Rule 43(d)(vi) of the CRPF Rules to the proviso to

⁶ “CCS (Pension) Rules” hereinafter

⁷ (vi) a notice to retire voluntarily under clause(i) after completion of 20 years of qualifying service shall require acceptance by the appointing authority if the date of retirement on the expiry of the period notice would be earlier than the date on which the member of the Force concerned could have retired under sub-rule (a). Such acceptance may be generally given in all cases except where:

(a) any disciplinary proceedings are pending or contemplated against the member of the Force concerned for the imposition of a major penalty and the disciplinary authority, having regard to the circumstances of the case, is of the view that the imposition of the penalty of removal or dismissal from the service would be warranted in the case; or

(b) any prosecution is contemplated or may have been launched in a court of law against the member of the Force concerned:

Provided that –

(i) in cases, referred to in item(a) and item(b) above, approval of the Government in the case of Superior Officers, of the Inspector General in the case of Subordinate and Under Officers, of the Deputy Inspector General in the case of other member of the Force except enrolled followers and the Commandant in the case of enrolled followers shall be obtained;

(ii) in other cases, acceptance by the appointing authority may be presumed and the retirement of the member of the Force concerned may take effect in the terms of the notice, unless the appointing authority passes an order to the contrary before the expiry of the period of notice.



Rule 48A(ii) of the CCS (Pension) Rules. According to Mr. Gautam, these provisions are nearly identical.

6. The submission is obviously misconceived.
7. There is no similarity between the proviso to Rule 48(A)(ii) of the CCS (Pension) Rules and proviso (ii) to Rule 43(d)(vi) of the CRPF Rules.
8. Proviso (ii) to Rule 43(d)(vi) of the CRPF Rules applies only where the case does not fall within either clause (a) or (b) of Rule 43(d)(vi). Of these, clause (a) deals with cases in which disciplinary proceedings are pending or contemplated against the officer concerned and clause (b) deals with cases in which a prosecution is contemplated or may have been launched against the officer of the Force.
9. Admittedly, no prosecution has been launched against the petitioner and it cannot be said that disciplinary proceedings are pending as no charge sheet has been issued to him. It is trite, in service law, that disciplinary proceedings commence with issuance of a charge-sheet, and at no point of time prior thereto.
10. However, Mr. Jagdish Chandra, on instructions, submits that there are serious allegations against the petitioner on which an inquiry is presently in progress and, if it is found that the allegations have any substance, disciplinary proceedings would be launched. As such, he submits that, at any rate, disciplinary proceedings can presently be



treated as “contemplated” against the petitioner.

11. Moreover, Mr. Jagdish Chandra correctly points out that there is no provision in Rule 43, which is similar to the proviso to Rule 48A(ii) of the CCS (Pension) Rules and that, therefore, the applicability of the decision of the Supreme Court in *Tek Chand* may be disputable.

12. Having heard learned Counsel, we are of the opinion that there is, in fact, no provision, in Rule 48 of the CRPF Rules which is even *pari materia*, much less *haec verba*, to the proviso to Rule 48A(ii) of the 1972 Pension Rules, or which provides that, on expiry of the period specified in the notice of voluntary retirement, the request would be deemed to be accepted. The judgement of the Supreme Court in *Tek Chand*, which turned on the wordings of the proviso to Rule 48A(ii) of the 1972 Pension Rules is not, therefore, applicable to the present case, which is governed by Rule 43 of the CRPF Rules.

13. In the circumstances, the only relief which can be granted in this writ petition is for a direction to the respondents to take a decision on the petitioner’s application for voluntary retirement within a time bound frame.

14. As is apparent from the letter dated 12 February 2025, the petitioner’s application for voluntary retirement was forwarded by the Company Commander-A/55 Bn to the Commandant-55 Bn under cover of a letter dated 30 January 2025. Despite this, unfortunately no



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decision has been taken on the application and has been communicated to the petitioner till date. All that has been communicated to him is a letter dated 6 May 2025, in which it is stated that the matter was pending with higher officials and the decision on the petitioner's voluntary retirement application could be taken only thereafter.

15. We accordingly, direct the respondents to take a decision on the petitioner's application for voluntary retirement positively within a period of four weeks from today and to communicate the decision to the petitioner as soon as it is taken.

16. Needless to say, should the petitioner remain aggrieved by the decision, his rights in law would remain reserved.

17. In as much as the Rule 43 of the CCS (Pension) Rules do not apply, we cannot halt the transfer order of the petitioner or interdict the operation of the movement order which has been issued on the basis of the transfer order.

18. The petitioner was required to join his new place of posting on 30 June 2025. We have already crossed that date.

19. Accordingly, apropos the transfer of the petitioner, we direct the petitioner to join at the transferred place of posting within ten days from today. This shall however, remain subject to the decision to be taken by the respondents on the petitioner's voluntary retirement



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application.

20. In case the petitioner failed to join at the transferred place of posting within ten days has directed, he shall remain answerable for the consequences of such failure.

21. The writ petition stands disposed of in the aforesaid terms with no orders as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JULY 7, 2025

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Click here to check corrigendum, if any