



2026:DHC:3035-DB



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

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Judgment reserved on: 23.03.2026

Judgment pronounced on: 15.04.2026

Judgment uploaded on: 15.04.2026

+ W.P.(C) 3029/2026, CM APPL. 14577/2026, CM APPL. 14578/2026, CM APPL. 18109/2026

GOVT OF NCT OF DELHI AND ORSPetitioners

Through: Ms. Avnish Ahlawat, SC along
with Mr. Nitesh Kumar Singh,
Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Adv.

versus

DHEER SINGHRespondent

Through: Mr. Ankit Mehta, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Petition, the Petitioners pray for quashing of the order dated 19.11.2025 passed by learned Central Administrative Tribunal, Principal Bench, New Delhi [hereinafter referred to as the 'Tribunal'] in O.A. No. 4796/2024 whereby the Tribunal has allowed the said Original Application filed by the Respondent, set aside the Office Order dated 03.05.2024 issued by the Petitioners accepting the Respondent's request for voluntary retirement w.e.f. 08.05.2024, and has further directed reinstatement of the Respondent in service with all consequential benefits, including



continuity of service, arrears of salary and other attendant benefits.

2. The issue which arises for consideration in the present Petition is whether, in the facts and circumstances of the case, the Respondent was entitled in law to withdraw his request for voluntary retirement after the same had already been accepted by the competent authority merely two days prior to the intended date of retirement, in the face of the express stipulation contained in Rule 43(6) of the Central Civil Services (Pension) Rules, 2021 mandating that any request for withdrawal of voluntary retirement must be made not less than fifteen days before the intended date of retirement.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. The Respondent was initially appointed on 06.05.1987 to the post of Masalchi (cook) in Guru Tegh Bahadur Hospital, which is under the administrative control of the Government of NCT of Delhi, and continued in service for several decades. It is not in dispute that, pursuant to the recommendations of the Departmental Promotion Committee (DPC), the Respondent was promoted to the post of Head Cook *vide* Office Order dated 21.09.2017.

5. On 09.02.2024, the Respondent submitted an application seeking voluntary retirement from service under the applicable provisions of the Central Civil Services (Pension) Rules, 2021, [hereinafter referred to as the 'CCS Rules']. The aforesaid request for



voluntary retirement was processed by the competent authority and came to be accepted *vide* Office Order dated 03.05.2024, whereby the Respondent was permitted to voluntarily retire from service with effect from 08.05.2024 (afternoon).

6. It is also not in dispute that subsequent to the acceptance of his request for voluntary retirement, the Respondent submitted a representation dated 06.05.2024 seeking withdrawal of his earlier request and praying that he be permitted to continue in service. The said request for withdrawal was not acceded to by the Petitioners, and consequently, the Respondent stood voluntarily retired from service with effect from 08.05.2024 in terms of the Office Order dated 03.05.2024.

7. Aggrieved by the aforesaid, the Respondent approached the Tribunal by filing O.A. No. 4796/2024 under Section 19 of the Administrative Tribunals Act, 1985, *inter alia*, seeking setting aside of the Office Order dated 03.05.2024, reinstatement in service with consequential benefits, including back wages, and other ancillary reliefs.

8. The Tribunal, upon consideration of the submissions advanced on behalf of the parties and placing reliance upon the decisions of the Hon'ble Supreme Court in **Balram Gupta v. Union of India**¹, **J.N. Srivastava v. Union of India**² and **Shambhu Murari Sinha v. Project & Development India Ltd.**³, as also the judgment of this Court in

¹ (1987) Supp SCC 228

² (1998) 9 SCC 559

³ (2000) 5 SCC 621



Birender Singh Ex DC v. Union of India & Ors.⁴, proceeded to hold that, insofar the Respondent had sought withdrawal of his request for voluntary retirement prior to the effective date of retirement, the action of the Petitioners in not permitting such withdrawal was unsustainable in law.

9. On the aforesaid reasoning, the Tribunal allowed the Original Application, set aside the Office Order dated 03.05.2024, and directed reinstatement of the Respondent in service with all consequential benefits, including continuity in service, arrears of salary and increments.

10. It is in the aforesaid backdrop that the Petitioners have approached this Court by way of the present Writ Petition, assailing the Impugned Order.

CONTENTIONS OF THE PARTIES:

11. Contentions of the Petitioners:

11.1. Learned counsel for the Petitioners assailed the Impugned Order primarily on the ground that the Tribunal has failed to appreciate the express statutory framework governing voluntary retirement under the CCS Rules, and has granted relief to the Respondent in the teeth of a mandatory provision of law.

11.2. It was submitted that Rule 43(6) of the CCS Rules clearly stipulates that a government servant, who has elected to retire and has given the requisite intimation, shall be precluded from withdrawing

⁴ 2025 DHC 8315 (DB)



such election, except with the specific approval of the competent authority, and further mandates, by way of a proviso, that any request for withdrawal must be made not less than fifteen days prior to the intended date of voluntary retirement. It was contended that the said requirement is mandatory in nature and admits of no exception.

11.3. It was submitted that in the present case, the Respondent sought withdrawal of his request for voluntary retirement on 06.05.2024, whereas the intended date of retirement was 08.05.2024. The request was thus made only two days prior to the effective date and is *ex facie* in violation of the mandatory requirement prescribed under the Rules.

11.4. It was further contended that the Respondent's request for voluntary retirement had already been accepted by the competent authority *vide* Office Order dated 03.05.2024, and therefore, the right to withdraw the same did not survive except in strict compliance with the governing statutory provisions.

11.5. It was submitted that the reliance placed by the Tribunal on the decisions in **Balram Gupta** (supra) and **J.N. Srivastava** (supra) is misplaced, inasmuch as in those cases the withdrawal of voluntary retirement was effected in accordance with the applicable rules and within the permissible time frame. It was contended that the said judgments do not dilute the mandatory nature of the statutory requirement.

11.6. It was further submitted that the reliance placed on the judgment of this Court in **Birender Singh** (supra) is misconceived, as in the said case the request for withdrawal was made within the



permissible period prescribed under the Rules. It was contended that the Tribunal has failed to appreciate the material factual distinction and has erroneously applied the said decision to the facts of the present case.

11.7. It was submitted that by permitting withdrawal of voluntary retirement in the absence of compliance with the mandatory statutory requirement, the Tribunal has effectively rewritten the provision contained in Rule 43(6) of the CCS Rules, which is impermissible in law and amounts to a jurisdictional error.

12. Contentions of the Respondent:

12.1. *Per contra*, learned counsel for the Respondent supported the Impugned Order and submitted that the Respondent had sought withdrawal of his request for voluntary retirement on 06.05.2024, i.e., prior to the effective date of retirement, and therefore, the employer-employee relationship had not ceased at the relevant point of time. It was contended that in such circumstances, the Respondent was entitled to withdraw his request.

12.2. It was submitted that the Tribunal has rightly relied upon the decisions of the Hon'ble Supreme Court in **Balram Gupta** (supra), **J.N. Srivastava** (supra) and **Shambhu Murari Sinha** (supra), to contend that an employee is entitled to withdraw a request for voluntary retirement before it becomes effective, particularly where there is a change in circumstances.

12.3. It was further submitted that the issue stands squarely covered



by the judgment of this Court in ***Birender Singh Ex DC*** (supra) wherein this Court, while considering Rule 43(6) of the CCS Rules, has held that withdrawal of voluntary retirement ought to be permitted, and that the employer is required to act reasonably and not arbitrarily in refusing such request.

12.4. It was further submitted that the law recognizes a degree of flexibility in such matters, and where the withdrawal is sought prior to the effective date of retirement and does not prejudice the administration, the employer ought to adopt a pragmatic approach and permit such withdrawal.

ANALYSIS & FINDINGS:

13. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record. Before advertng to the rival contentions, it would be apposite to examine the statutory framework governing voluntary retirement and withdrawal thereof under the CCS Rules.

14. For ready reference, Rule 43(6) of the CCS Rules reads as under:

"43 (6) A Government servant, who has elected to retire under this rule and has given the necessary notice/intimation to that effect to the appointing authority, shall be precluded from withdrawing his election subsequently except with the specific approval of such authority.

Provided that the request of withdrawal shall be made not less than fifteen days before the intended date of voluntary retirement."

15. A plain reading of the aforesaid provision indicates that while a government servant is entitled to seek voluntary retirement, the right



to withdraw such request is not absolute but is circumscribed by the conditions expressly stipulated therein. Sub-rule (6) permits withdrawal of a notice of voluntary retirement only with the specific approval of the appointing authority, and the proviso further mandates that such request must be made not less than fifteen days prior to the intended date of voluntary retirement. These two requirements constitute conditions precedent for a valid withdrawal.

16. The language employed in the aforesaid provision is couched in mandatory terms. The use of the expression “shall”, both in relation to the embargo on withdrawal and the requirement of a minimum notice period, leaves little scope for discretion *dehors* the statutory framework. The proviso prescribing a minimum period of fifteen days is not merely procedural, but constitutes a substantive condition governing the exercise of the right of withdrawal. Significantly, the Rule does not contemplate any power of condonation or relaxation of the said period.

17. In the present case, the intended date of voluntary retirement was 08.05.2024, whereas the Respondent submitted the request for withdrawal on 06.05.2024, i.e., merely two days prior to the intended date. The statutory requirement of a minimum notice period of fifteen days, as mandated under the proviso to Rule 43(6) of the CCS Rules, was thus clearly not satisfied. It is also an admitted position that the Respondent’s request for voluntary retirement had already been accepted by the competent authority *vide* Office Order dated 03.05.2024. Once the request stood accepted, the right to withdraw the same could only be considered within the parameters prescribed under



the Rules.

18. At this stage, it would be apposite to examine the contents of the Respondent's request dated 06.05.2024 seeking withdrawal of his earlier application for voluntary retirement. The said application, in material part, reads as follows:

"I applied for the VRS application because I was ill at that time. So, my application of VRS should be quashed... and allow me to serve and complete my 2 years of Duty."

A careful perusal of the aforesaid application reveals that the Respondent has merely stated, in a bald and unsubstantiated manner, that he had applied for voluntary retirement on account of illness. Significantly, there is no averment that the said condition had improved, or that any material change in circumstances had intervened warranting withdrawal of the request for voluntary retirement.

19. The application is conspicuously vague and bereft of material particulars. No details of the alleged illness have been furnished, nor has any supporting medical record been placed on record at any stage. The request does not disclose any cogent or compelling reason justifying the withdrawal of a consciously submitted request for voluntary retirement, much less one that had already been accepted by the competent authority. In service jurisprudence, particularly in the context of withdrawal of voluntary retirement, the existence of a demonstrable change in circumstances assumes significance. The Respondent's application is wholly silent in this regard. Notably, the application does not even assert that the circumstances which allegedly prompted the request for voluntary retirement had ceased to



exist.

20. This aspect assumes greater significance when juxtaposed with the averments made by the Respondent in the Original Application filed before the Tribunal. In the said proceedings, the Respondent has taken a materially different stand, alleging that he was suffering from certain ailments, including hypertension, blood sugar and an eye condition for which he underwent surgery in January 2024, and further asserting that he was compelled to opt for voluntary retirement on account of pressure from the staff of the hospital. However, none of these assertions find mention in the withdrawal application dated 06.05.2024. The said application neither alleges coercion nor refers to any pressure, harassment or assurance by the authorities. The complete absence of these material pleas at the relevant time, coupled with their subsequent introduction before the Tribunal, renders the Respondent's case inconsistent and detracts from its credibility.

21. It is also pertinent to note that the Respondent submitted his request for voluntary retirement on 09.02.2024, which came to be accepted on 03.05.2024. Despite the passage of nearly three months, no formal steps were taken by the Respondent to withdraw the said request in accordance with law. The explanation sought to be furnished in the Original Application, to the effect that he had orally approached the authorities and was allegedly misled into believing that his request would be taken care of, finds no reflection in any contemporaneous record, including the withdrawal application dated 06.05.2024. The said plea, being unsupported by any material and inconsistent with the written request, cannot be accepted at face value.



The belated submission of the withdrawal request, merely two days prior to the intended date of retirement, without any cogent or substantiated explanation, further weakens the Respondent's claim.

22. Even otherwise, the scheme of Rule 43(6) of the CCS Rules does not contemplate an unstructured or unilateral right of withdrawal. The provision explicitly mandates that withdrawal can be effected only with the specific approval of the competent authority and subject to the condition that such request is made not less than fifteen days prior to the intended date of retirement. The language of the Rule is peremptory and does not admit of any relaxation or condonation of the prescribed period. The statutory framework, therefore, excludes consideration of requests which do not satisfy these threshold requirements.

23. It is also necessary to note that once a request for voluntary retirement stands accepted by the competent authority, the employee does not retain an unfettered or vested right to withdraw the same merely because the effective date of retirement lies in *futuro*. The acceptance of such request crystallizes the decision, and any subsequent withdrawal can only be considered strictly within the parameters prescribed under the governing statutory framework. In other words, the right, if any, to seek withdrawal post-acceptance is not absolute, but conditional and regulated by Rule 43(6) of the CCS Rules.

24. In the present case, not only was the request for withdrawal made in clear breach of the minimum period prescribed under the



proviso to Rule 43(6) of the CCS Rules, but there is also nothing on record to indicate that the Respondent had sought permission of the competent authority in the manner contemplated under the said provision. The Tribunal, while granting relief to the Respondent, has neither adverted to nor examined these mandatory statutory requirements. In the absence of compliance with the conditions precedent stipulated under Rule 43(6) of the CCS Rules, and in the absence of any demonstrable change in circumstances, the Respondent's claim does not merit acceptance either on facts or in law.

25. It is, therefore, evident that the Respondent could not have asserted any vested or enforceable right to seek withdrawal of his request for voluntary retirement *dehors* the statutory framework. The right of withdrawal, being circumscribed by Rule 43(6) of the CCS Rules, is conditional and not absolute. In the absence of strict compliance with the conditions prescribed therein, no legal entitlement accrues in favour of the Respondent.

26. The Tribunal, however, proceeded on the premise that since the Respondent had sought withdrawal prior to the effective date of retirement, the same ought to have been permitted. This approach, in the considered opinion of this Court, suffers from a fundamental error.

27. The mere fact that the request for withdrawal was made before the effective date of retirement cannot, by itself, be determinative. The statutory framework does not contemplate an unrestricted right to withdraw up to the last date; rather, it specifically conditions such



right upon compliance with the minimum notice period prescribed under the proviso to Rule 43(6) of the Rules.

28. By treating the timing of withdrawal with reference only to the effective date of retirement and ignoring the statutory requirement of fifteen days, the Tribunal has effectively diluted the mandate of the Rule and rendered the proviso nugatory. If such interpretation were to be accepted, the proviso prescribing a minimum period of fifteen days would be rendered otiose, as withdrawal could then be sought at any point prior to the effective date, thereby defeating the legislative intent.

29. The reliance placed by the Tribunal on the decision of the Hon'ble Supreme Court in **Balram Gupta** (supra) requires closer scrutiny. In the said case, the Supreme Court, while interpreting Rule 48-A of the CCS Rules, recognized that though a government servant has the locus poenitentiae to withdraw a notice of voluntary retirement before the intended date of its effectiveness, such withdrawal, in terms of the statutory framework, remains subject to the approval of the competent authority. Crucially, the Court held that the discretion to grant or refuse such approval cannot be exercised arbitrarily, but must be guided by reason, fairness and rationality. In the facts of that case, the Supreme Court found that the employee had sought withdrawal well before the effective date of retirement, had indicated a change in circumstances, and that no prejudice had been caused to the administration. It was in those circumstances that the refusal to grant approval was held to be unsustainable. The said judgment, however, cannot be read as dispensing with the statutory requirement of



approval or as conferring an unfettered right to withdraw a request for voluntary retirement in derogation of the governing Rules.

30. Similarly, in *J.N. Srivastava* (supra) and *Shambhu Murari Sinha* (supra), the Supreme Court recognized the principle that a request for voluntary retirement, even if accepted, can be withdrawn prior to the “effective date”, i.e., before the employee is actually relieved from service. However, it is material to note that the said decisions turned on the broader principle of locus poenitentiae and were rendered in factual contexts where no specific statutory time-bar akin to the fifteen-day requirement contained in the proviso to Rule 43(6) of the CCS Rules was either applicable or fell for consideration in those cases. In the present case, however, the field is expressly governed by the proviso to Rule 43(6) of the CCS Rules, which mandates that a request for withdrawal must be made at least fifteen days prior to the intended date of retirement. The said statutory stipulation, being explicit and mandatory in nature, cannot be diluted by reliance on general principles evolved in a different factual and regulatory context. The aforesaid decisions, therefore, cannot be construed as conferring an unfettered right of withdrawal in derogation of the governing Rules.

31. The Tribunal has placed considerable reliance on the judgment of this Court in *Birender Singh* (supra). A careful reading of the said decision, however, indicates that while this Court adopted an employee-centric and pragmatic approach in permitting withdrawal of voluntary retirement, the same was nonetheless within the framework of Rule 43(6) of the CCS Rules. The Court expressly noted that the



right to seek withdrawal is subject to two conditions, namely, that such request must be made at least fifteen days prior to the intended date of retirement and that it requires approval of the competent authority, which cannot be withheld arbitrarily.

32. The distinguishing feature in the present case is that the Respondent sought withdrawal of his request only two days prior to the intended date of retirement, i.e., on 06.05.2024 for a retirement effective from 08.05.2024. This is in clear breach of the mandatory requirement contained in the proviso to Rule 43(6) of the CCS Rules. In **Birender Singh** (supra), on the other hand, the request for withdrawal was admittedly made well beyond the minimum period of fifteen days prescribed under the Rules. The said judgment, therefore, proceeded on a materially different factual footing.

33. While **Birender Singh** (supra) emphasizes that the competent authority must adopt a reasonable and non-arbitrary approach while considering such requests, the said principle operates only within the bounds of the statutory framework. The judgment cannot be read as diluting or dispensing with the express requirement of the proviso to Rule 43(6) of the CCS Rules. The Tribunal, in the present case, has erred in extending the ratio of **Birender Singh** (supra) to a situation where the foundational statutory condition itself stood unfulfilled.

34. By permitting withdrawal of voluntary retirement in the absence of compliance with the mandatory statutory requirement, the Tribunal has, in effect, rewritten the provision contained in Rule 43(6) of the CCS Rules. Such an approach is impermissible and amounts to



a jurisdictional error warranting interference in exercise of writ jurisdiction. The Tribunal has thus failed to give effect to the express statutory mandate and has proceeded on considerations *dehors* the governing Rule.

35. In view of the aforesaid discussion, this Court is of the considered opinion that the Impugned Order passed by the Tribunal cannot be sustained in law, as the same is contrary to the express statutory framework and is founded on a misapplication of binding precedents.

CONCLUSION:

36. For the reasons aforesaid, this Court is unable to sustain the view taken by the Tribunal. The Impugned Order is liable to be set aside, as the Tribunal has failed to give due effect to the mandatory provisions contained in Rule 43(6) of the CCS Rules and has erroneously permitted withdrawal of voluntary retirement in disregard of the statutory prescription.

37. Accordingly, the present Writ Petition is allowed in the following terms:

- i. The Impugned Order passed by the Tribunal in O.A. No. 4796/2024 is set aside;
- ii. The Office Order dated 03.05.2024 issued by the Petitioners accepting the Respondent's request for voluntary retirement is upheld;
- iii. The Respondent shall be deemed to have validly retired from



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service with effect from 08.05.2024;

iv. The Respondent shall be entitled only to such retiral benefits as are admissible to him in accordance with law;

38. The Pending applications also stand closed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 15, 2026

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