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

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Date of Decision : 16.03.2026+ **W.P.(C) 13418/2024****RAJESH BHANDORIA**

.....Petitioner

Through: Mr. Ankur Chhibber and Mr. Arjun
Panwar, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Abhinav Kalia, Mr. Ajit Kumar
Kalia, SPC, Mr. Devesh Khara, Mr.
Devesh Dubey, Mr. Lakshya Bhatia
and Mr. Bismit Nayak, Advs. along
with Mr. Rajkumar Maurya, GP**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****V. KAMESWAR RAO, J. (ORAL)**

1. This petition has been filed with the following prayers:-

*“i) Issue a Writ of Certiorari quashing the message issued by the Respondent Force dated 31.08.2023 rejecting the application for withdrawal of Voluntary Retirement from Service of the Petitioner; and**ii) Issue a Writ of Mandamus directing the Respondents to accept the application dated 28.08.2023 of the Petitioner for Withdrawal of his resignation dated 23.06.2023 and resume his service as per the CCS Pension Rules, 1972; and”*

2. The challenge of the petitioner is primarily to the message dated



31.08.2023 from HQ, DG, Border Security Force (BSF) to 139 Battalion, BSF whereby it was conveyed that the competent authority has not accorded approval for withdrawal of the notice of Voluntary Retirement from Service (VRS) rendered by the petitioner.

3. The facts to be noted are that the petitioner while working as Second in Commandant with the BSF, because of certain personal reasons, submitted a VRS application dated 09.05.2023 and sought VRS with effect from 31.07.2023. The said application was returned by the respondents on 23.06.2023 by stating that since the petitioner did not fulfil the criteria of minimum three months of notice period, the same could not be accepted. It was stated that a fresh notice for VRS be sent by giving three month time period by giving reference to the previous application dated 09.05.2023. Pursuant thereto, the petitioner submitted a fresh application on the same date, i.e. 23.06.2023, seeking VRS with effect from 31.08.2023. Thereafter, the Commandant (Personnel) in the BSF Headquarters *vide* letter dated 25.08.2023 addressed to the Director, (Accounts) had conveyed to him the acceptance of notice for VRS given by the petitioner. It was also stated that the petitioner shall retire from service on 31.08.2023 and he shall be entitled to the pension under the Central Civil Services (Pension) Rules, 2021 [CCS Pension Rules, 2021].

4. The petitioner *vide* letter dated 28.08.2023 submitted his representation for withdrawal of the VRS application with effect from 31.08.2023. It is the said representation which was rejected by the impugned message, a reference to which has already been made above.



5. Mr. Ankur Chhibber, learned counsel appearing for the petitioner would submit that the case of the petitioner for VRS application dated 09.05.2023 with effect from 31.07.2023 was sent to the SHQ, BSF on 10.05.2023. But on scrutiny of the case of the petitioner, it was found that the petitioner has produced the notice for VRS on 09.05.2023, which was less than three months prescribed under Rule 43(1) of the Pension Rules, 2021. Accordingly, the notice of the petitioner was returned *vide* signal dated 22.06.2023. Further, it was directed through signal (Annexure P5) that the petitioner may give a notice afresh of not less than three months in writing, with reference to previous application dated 09.05.2023. The petitioner submitted the fresh application dated 23.06.2023 for seeking VRS with effect from 31.08.2023. The said request of the petitioner was accepted by the respondents *vide* letter dated 25.08.2023, but with effect from 31.08.2023. On 28.08.2023, the petitioner expressed himself to withdraw the notice dated 23.06.2023. The said request was rejected.

6. The case of the respondents is that as per Rule 43(6) of the CCS Pension Rules, 2021, the request for withdrawal of notice for VRS has to be made by the employee at least 15 days before the intended date of VRS. The petitioner had submitted the application for withdrawal of notice for VRS three days before the date of VRS. So, the competent authority rejected the application for withdrawal of VRS.

7. The submission of Mr.Chhibber is that the stand of the respondents by relying upon Rule 43(6) of the Pension Rules, 2021 is misconceived inasmuch as it is imperative to highlight the fact that the petitioner received the acceptance of his application dated 23.06.2026, for VRS *vide*



communication dated 25.08.2023, which was issued by the respondents six days before the effective date of VRS, i.e. 31.08.2023. Therefore, when the acceptance of the VRS application has been made six days before the effective date of the VRS, the expectation that the petitioner should have submitted the application for withdrawal 15 days before the effective date of VRS, is without basis and arbitrary. Even otherwise, it is his submission that previously the respondents have rejected the application of the petitioner for VRS as the same did not fulfil the mandatory three months notice period to avail the benefit of VRS. Hence, the petitioner could not be denied the withdrawal of his VRS application as he was within his right to withdraw the same till the intended date of VRS.

8. His submission is also that the respondent could not have accepted the VRS application with effect from 31.08.2023 as the said request was also made for period that is less than three months with effect from 23.06.2023. According to him, this application also suffered from the same infirmity as the earlier application dated 09.05.2023. Hence, looking from any angle, acceptance of the notice for VRS and rejection of the petitioner's request for withdrawal of VRS are liable to be set aside.

9. In support of his arguments, Mr.Chhibber, heavily relies upon the decision of the Supreme Court in the case of *S D Manohara v. Konkan Railway Corporation Limited & Others, 2024 INSC 693* as well as on the decision of this Court in the case of *Birander Singh Ex DC v. Union of India & Others, 2025:DHC:8315-DB*.

10. On the other hand, Mr Abhinav Kalia, learned counsel for the



respondents would only reiterate the stand taken by the respondents in their counter affidavit.

11. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the respondents are justified in accepting the request for VRS and also rejecting the prayer for withdrawal of the same.

12. The answers to both the issues have to be in the negative. This we say so because the petitioner had earlier submitted an application dated 09.05.2023 giving notice seeking VRS, with effect from 31.07.2023. The said request was returned to the petitioner calling upon him to submit a fresh application *with reference to the application dated 09.05.2023* and accordingly, the petitioner submitted the application seeking VRS *vide* letter dated 23.06.2023. He specifically mentioned the date of his seeking VRS shall be from 31.08.2023. It is the date of 31.08.2023 (though was beyond the period of three months) which shall be the relevant date. In that sense, the requirement of three months has been met in the application.

13. The respondents are justified in relying upon the provision of Rule 43(6) of the CCS Pension Rules, 2021 to *inter alia*, contend that if an officer intends to withdraw the application for VRS, the same should be at least 15 days before the intended date of VRS. In the present case, the date seeking VRS was 31.08.2023, which was accepted *vide* an internal communication dated 25.08.2023. The petitioner coming to know that his application for VRS got accepted, made the representation for withdrawal of the same on 28.08.2023, i.e., three days before the intended date of VRS as such the



request shall be hit by the aforesaid provision.

14. The submission of Mr. Chhibber is that the stipulation of 15 days would not be triggered as the petitioner could withdraw his request for withdrawal, only when the petitioner comes to know that the respondents have accepted the request for VRS of the petitioner and not before that.

15. We are unable to accept this plea of Mr. Chhibber for the simple reason that nothing precluded the petitioner from withdrawing his application(s) dated 09.05.2023/23.06.2023 for VRS effective from 31.08.2023, even before the same was accepted on 25.08.2023. Even the plea of Mr. Chhibber that the period of 30 days having expired on 09.08.2023 (the request having been made on 09.05.2023), and as such request for VRS had become infructuous and could not have been acted upon is also unmerited. This we say so, because, it is the case of the petitioner that the VRS be accepted with effect from 31.08.2023. He cannot argue contrary to what has been stated by him in the request for VRS on 23.06.2023.

16. Surely, in the facts of this case, the provision of Rule 43(6) of the Pension Rules, 2021 shall be applicable. No doubt, it is settled law that an employee is within his right to withdraw the request for VRS, even if it is accepted, but before the effective date of VRS, however, such a position of law would not be applicable to the present case in view of the Rule 43(6) of the Pension Rules, 2021.

17. Insofar as the judgment in the case of *S.D. Manohara (supra)*, as relied upon by Mr. Chhibber is concerned, the same relates to the facts



where the appellant therein had been in service of the respondent – Konkan Railway Corporation Limited – w.e.f. 1990. After putting 13 years of service, he tendered his resignation letter dated 05.12.2013 stating that it may be considered as coming into effect on the expiry of one month. The respondent's case therein was that the letter of resignation was accepted on 15.04.2014 with effect from 07.04.2014. The appellant sought withdrawal of his resignation letter dated 05.12.2013 only on 26.05.2014. The respondents rejected the request on 23.06.2014 and relieved the appellant from service with effect from 01.07.2014. The appellant contended that the acceptance of resignation *vide* letter dated 15.04.2014 with effect from 07.04.2014 was never issued to him, rather it was an internal communication of the respondent and was not even marked to the appellant as it had no reference to the appellant's resignation letter dated 05.12.2013. That apart, he continued in service despite the initial letter dated 05.12.2013 and in fact, reported for duty on 19.05.2014. He had relied upon the letter dated 10.05.2014 issued by the respondent, directing him to report for duty pursuant to his application dated 24.04.2014 for casual leaves for two days, i.e., 25.04.2014 and 26.04.2014.

18. The appellant questioned the letter dated 23.06.2014 of the respondent rejecting the withdrawal, in Writ Petition No.50662/2014 before the Karnataka High Court. The learned Single Judge *vide* judgment dated 16.07.2019 allowed the said writ petition and directed the reinstatement of the appellant with all consequential benefits. The respondent challenged the said decision before the Division Bench, which allowed the writ appeal, stating as under:-



“5....Here in the instant case, the resignation was not immediately accepted as sought for by the petitioner on expiry of one month. The resignation which was submitted on 05.12.2013 was accepted with effect from 07.04.2014. This was communicated to the petitioner on 15.04.2014 with a relieving date. The letter to withdraw the resignation was made on 26.05.2014. The petitioner was communicated rejection of his request to withdraw the resignation only on 23.06.2014. The petitioner was relieved on the basis of the said communication on 01.07.2014 and official order was issued on 15.07.2014....

21. In the present case, the resignation was not accepted as sought for by the petitioner at the expiry of one month from 05.12.2013 and he was allowed to work till he was relieved only on 01.07.2014 with office order issued on 15.07.2014...

“21. In the light of the above discussion, this Court is of the opinion that the employer was justified in rejecting the request made by the respondent employee in respect of withdrawal of resignation as his resignation dated 05.12.2013 was accepted with effect from 07.04.2014 and the application for withdrawal was submitted on 26.05.2014, i.e. after expiry of the period on which the resignation came into force.”

19. Upon further appeal before the Supreme Court, the Supreme Court in paragraphs 9 to 11 has held as under:-

“9. At the outset, we may record that, even assuming that the appellant withdrew resignation letter dated 05.12.2013 on 26.05.2014, it is just about five months in a long service of 24 years in the Indian Railways. Between these two admitted dates, lie the competing and highly contested claims of parties that the resignation is either withdrawn or not withdrawn before its acceptance. Our enquiry is confined to finding this fact.

10. The respondent-employer strongly relies on the letter of acceptance of resignation dated 15.04.2014 and submits



that it has come into effect from 07.04.2014. We are inclined to accept the submission made by the appellant that the letter dated 15.04.2014 is an internal communication. There is no clear evidence about the service of such letter on the appellant. Further, it is also not denied that the appellant has been continuously in touch with the respondent. There is no reason as to why the respondent-Corporation would write a letter on 10.05.2014 requesting the appellant to report to duty for considering his unauthorised absence from 28.04.2014 to 18.05.2014.

11. It is an admitted fact that the appellant has in fact reported to duty on 19.05.2014. There is also the communication of the appellants wife on 17.04.2014 and 20.05.2014 requesting that the resignation dated 05.12.2013 should not be accepted by the respondents. As stated earlier, there is also the letter dated 10.05.2014 of the respondent asking the appellant to report on duty for considering his unauthorised absence from 28.04.2014 to 18.05.2014 which gives an indication that there was no finality to the letter of resignation dated 05.12.2013. The learned single Judge was correct in his conclusion that the resignation was withdrawn before its acceptance. The relevant portion of the single Judge order is as under:-

“13. In the present case, the resignation which was submitted on 05.12.2013 with a request to accept it at the expiry of one month was stated to have been accepted only on 15.04.2014. There is undue delay in accepting the resignation by the respondents. In the above decision, the delay of mere 13 days in communicating acceptance of the resignation, is held to be not an undue delay so as to infer that resignation had not already been accepted. Therefore, the decision in Vedpathi Dinesh Kumar’s case is also of no help to the respondents.

14. In the circumstances, I am of the view that petitioner having submitted his letter dated 26.5.2014 seeking to withdraw the resignation much before the effective date, 01.07.2014 with official order on



15.07.2014 by which the petitioner was relieved of his duties, withdrawal of resignation ought to have been accepted by the respondents and continued the petitioner in service. The contrary decision by the respondents by the communication dated 23.06.2014 that withdrawal of resignation is not accepted and decision accepting the resignation stands good, is not sustainable in law....”

20. The Supreme Court held that the Division Bench fell in error by not eschewing the communication dated 15.04.2014. Resultantly, the Supreme Court set aside the order of the Division Bench of the High Court.

21. From the above, it is clear that in that case, the employer strongly relied upon the letter of acceptance of resignation dated 15.04.2014 and submitted that it had come into effect from 07.04.2014. The Supreme Court has not accepted the said plea. It accepted the plea of the appellant that letter dated 15.04.2014 is an internal communication. It also held that there is no clear evidence of service of the letter dated 15.04.2014 upon the appellant. Further, the Supreme Court also took into consideration that the appellant had been continuously in touch with the respondent. There is no reason as to why the respondent - Corporation would write a letter dated 10.05.2014 requesting the appellant to report for duty for considering his unauthorised absence from duty with effect from 28.04.2014 to 18.05.2014, which give indication that there was no finality to the letter dated 05.12.2013. Suffice to state, it was in those facts, the Supreme Court allowed the appeal filed by the appellant. The case is clearly distinguishable on facts and has no applicability in this case.

22. Insofar as the judgment of the Division Bench of this Court in



Birander Singh Ex DC (supra) is concerned, the same is only on the issue that where the petitioner's request for VRS had been accepted, to say it could not be withdrawn, is contrary to the law laid down by the Supreme Court as well as Rule 43(6) of the Pension Rules, 2021. In the said case, the facts reveal that the petitioner had submitted an application seeking VRS on 30.10.2022 with effect from 31.01.2023. The application for VRS was accepted by the competent authority of the respondent on 03.01.2023. The petitioner applied on 10.01.2023 for permission to withdraw the request for VRS. The same was rejected by the respondent on 31.01.2023.

23. The question which arose before the Division Bench of this Court was whether the request for withdrawal was valid. The Division Bench of this Court by relying upon the decisions in the case of *Balram Gupta v. Union of India, 1987 Supp SCC 228*, *J N Srivastava v. Union of India, (1998)9 SCC 559* and a decision of this Court in *Kande Mahender v. Union of India, W.P.(C) 2320/2025 decided on 27.08.2025* was of the view that both the conditions under Rule 43(6) of the Pension Rules, 2021, i.e., withdrawal must be 15 days prior to the date from which the VRS would take effect; and the withdrawal has to be with the approval of the concerned authority, have been satisfied.

24. Suffice to state the decision in the case of *Birander Singh Ex DC (supra)* has no applicability to the facts of this case as it is clear that in that case, the withdrawal of the application for VRS was made 15 days prior to the intended date of VRS. Hence, the said decision is distinguishable. No other judgment has been shown to us by the petitioner to further his case.



25. In the facts of this case, we are of the view that the petition lacks merit and is liable to be dismissed. We order accordingly.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

MARCH 16, 2026

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