

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 169 of 2014

Debendra Prasad Kalapahad ***Appellant***

Mr. H.B. Dash, Advocate

-versus-

State of Orissa and others ***Respondents***

Mr. M.K. Khuntia, AGA

M/s. Satyabrata Mohanty, Advocate & Associates

**CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

**ORDER
08.09.2022**

Order No.

05. 1. The present appeal is directed against an order dated 10th April 2014, passed by the learned Single Judge dismissing W.P.(C) No.5323 of 2003 filed by the present Appellant.
2. The prayer in the said writ petition was for a direction to the Opposite Party-State to post the Petitioner in any Government establishment and to give him all the benefits under the scheme applicable to the Government employees.
3. The background facts are that the Petitioner was employed as a Junior Clerk as a measure of the Rehabilitation Assistance Scheme (RAS) formulated by the Government, after the death of his father, who was working as Ex-Head Clerk in the Department of Water Resources. The stipulation under which the Appellant was

appointed was that he should serve in the Orissa Lift Irrigation Corporation Ltd. (OLIC) for a minimum period of three years.

4. A Voluntary Retirement Scheme (VRS) was floated for all Public Sector Units (PSUs) of Orissa including OLIC. Admittedly, the Appellant opted for the VRS within the time stipulated, i.e., before 15th January, 2003. According to the Appellant, he then realized that the said VRS was not applicable to him since he was appointed under the RAS and therefore, before the acceptance of his option under VRS, he submitted a representation seeking to withdraw the VRS option and asked that he be posted in any Government establishment.

5. When he did not hear from the Opposite Parties, he filed W.P.(C) No.5323 of 2003, in which an order of status quo was passed by this Court on 28th May, 2003. That interim order did not continue beyond 28th August, 2003 and he was relieved ultimately with effect from 25th February, 2004.

6. Although, the contention of the Appellant before the learned Single Judge was that he should have been permitted to continue in Government service since he had withdrawn from the VRS., the learned Single Judge noted that “VRS of the Petitioner has already acted upon by paying the required amount which he had acknowledged vide Annexure-D/2 at Sl. No.14, where the VRS amount has been received and as the VRS amount has been acted upon, at this stage, there is no question of withdrawal of the same”.

7. Learned counsel for the Appellant sought to contend that the amount accepted by the Appellant was not the entire amount and therefore it should not be construed as if the Appellant had not withdrawn from the VRS.

8. The Court is unable to agree with the above submissions. If the Appellant was serious about withdrawing his option under the VRS, then he should not have accepted any amount offered to him pursuant to his opting for the VRS. At the least, he could have accepted under protest which he obviously did not do.

9. The above conduct of the Appellant disentitles him to contend that his withdrawal from the VRS should have been accepted and he should have been given a posting in any Government establishment.

10. The Court is unable to find any error having been committed by the learned Single Judge in passing the impugned order. The appeal is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge