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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13260 OF 2023

Subhash Raghunath Borude

PETITIONER

VERSUS

The Union of India and Others

RESPONDENTS

.....

Mr. Nanabhau R. Thorat, Advocate for the Petitioner

Mr. Sudha Kulthe, Standing Counsel for Respondents No.1 to 5

.....

[CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.]

DATE : OCTOBER 26, 2023

ORDER :

1. The Petitioner has put forth prayer clauses "B", "C", "D" and "E", as under :

"B. By issuing Writ of mandamus or any other Writ, order of directions in the like nature, direct respondent authority to decide application dtd. 14.08.2023 and further direct to consider the claim of the petitioner for premature retirement or voluntary retirement.

C. By issuing Writ of mandamus or any other Writ, order of direction in the like nature, direct respondent authority to forward or decide application for leave dtd. 10.09.2023 and further direct to considered the claim of the petitioner for premature retirement or voluntary

retirement.

D. Kindly be declared and hold that order dtd. 17.09.2022 in C/056/99APO and order dtd. 31.07.2023 in C/056/99 APO passed by respondent authority are illegal and therefore liable to be quashed and set aside.

E. Kindly be declared and hold that petitioner is entitled to get premature retirement or voluntary retirement.”

2. It is the grievance of the Petitioner that due to serious marital discord with his wife he is unable to continue with his service as Hawaldar / DVR in the Army Medical Corps, which he joined on 14th September, 2004. Presently, he has completed 18 years and 6 months in service.

3. Learned Standing Counsel for the Union of India places on record a copy of the e-mail forwarded by her to the concerned office at Ahmednagar (Respondent No.4). The same is marked as “X-1” for identification.

4. She submits that she does not have specific instructions in the matter, but an officer in the Indian Army needs to put in 20 years of service in order to avail a voluntary retirement and a person of the rank of the Petitioner will have to put in 15 years

under Rule 48-A of the Central Civil Services (Pension) Rules, 1972.

5. After having considered submissions of the learned advocates for the respective sides, it is apparent that the Petitioner seems to have got fed up with marital disputes and clearly submits that he cannot concentrate on his work. He submits that the cause of his wife seeking divorce from him, is that he continued in service even after completion of 15 years and now his wife does not want to reside with him. He refers to the specific legal notice in the divorce petition dated 6th May, 2022 that she is seeking divorce from him only because he continued in service even after completing 15 years. According to learned advocate, the only mode of saving his marriage is to quit service and go back to his wife.

6. In view of the above, since the Petitioner has completed 15 years of service, which is a qualifying ground to seek voluntary retirement, we find that it would be a bit harsh to force him to continue with his employment, when on the one hand he has lost interest in service and on the other hand his wife has given him an ultimatum that if he quits employment and comes back to Ashti, Taluka-Beed, she would reconcile with him.

7. In the light of the above, this Petition is allowed. The impugned communication dated 17th September, 2022 and order dated 31st July, 2023 are set aside. We direct the Respondent Army Authorities to accept the Application of the Petitioner seeking voluntary retirement with effect from 1st November, 2023. After the petitioner complies all the necessary formalities for severing employer-employee relations, all the retiral benefits will be payable to the petitioner in accordance with Rules as are applicable.

[Y. G. KHOBRADE]
JUDGE

[RAVINDRA V. GHUGE]
JUDGE