

27.03.2024
Item No.03
Court No.11
Avijit Mitra

WP.CT 67 of 2023

In re: An application under Article 226 of the Constitution of India;

And

Md. Monazerul Haque
- Versus -
Union of India & ors.

Mr. Dinendra Nath Chatterjee,
Mr. Madhusudan Mandal
...for the petitioner

The present writ petition has been preferred challenging an order dated 8th February, 2023 passed by the learned Tribunal in the original application being OA No.350/00373/2021.

Records reveal that the petitioner was a Khalasi/Helper posted under SSE/TRS/ANR in South Eastern Railway. In the month of February, 2020, he was declared medically unfit in B-1 and B-2 categories and was declared fit in C-1 and C-2 categories. Thereafter on 14th March, 2020, the petitioner submitted an application for grant of voluntary retirement (in short, VR) on medical ground. As the said representation was not considered, the petitioner filed an original application before the learned Tribunal being O.A. No.350/1201/2020 and with consent of the parties, the same was disposed of with a direction upon the competent authority to consider the petitioner's representation dated 14th March, 2020. Pursuant to such

direction, the competent authority passed an order on 11th January, 2021 observing *inter alia* that VR with any precondition i.e., on medical ground or for extending Employment Assistance on Compassionate Ground (in short, EACG) to eligible ward cannot be accepted in terms of the Railway Board's letter dated 11.09.2012. Challenging the said order, the petitioner preferred the original application being O.A. No.350/00373/2021 which was dismissed on merits by an order dated 8th February, 2023 since the petitioner's prayer for VR was linked with compassionate appointment. The said order has been impugned in the present writ petition.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the petitioner is suffering from various ailments and is under extreme financial distress.

He submits, upon instruction, that the petitioner is only praying for grant of VR and such prayer is not linked with compassionate appointment and to that effect he has also submitted a representation dated 19th January, 2021 to the respondent no.4 enclosing an application for VR.

By the order dated 11th January, 2021 the petitioner's representation was disposed of observing *inter alia* as follows :

'You are once again advised to submit fresh representation seeking VR without any condition in terms of above indicated Railway Board's letter dated 11.09.2012 and on receipt of such unconditional VR application, the same may be accepted and VR should not be linked with the Employment Assistance on compassionate ground. However, once VR is accepted then compassionate appointment can be considered in

terms of stipulation made vide Railway Board's letter dated 14.06.2006'.

Accepting the order dated 11th January, 2021, the petitioner appears to have already submitted a representation dated 19th January, 2021, annexed at page 61 of the writ petition, to the respondent no.4 enclosing an application for VR without any precondition.

In view thereof, no further interference is called for in the present writ petition and the same is accordingly disposed of.

Needless to observe, the respondent no.4 shall consider the petitioner's representation dated 19th January, 2021 submitted enclosing an application for VR without any precondition and pass a reasoned order and communicate the same to the petitioner, as expeditiously as possible, preferably within a period of eight weeks from the date of communication of this order along with a copy of the writ petition.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)