

**IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

W.P.C.T. 77 of 2025

With

CAN 1 of 2025

Union of India & Ors.

Vs.

Mr. Partha Bhadra.

For the Petitioners : Mr. Animesh Mukherjee
 Mrs. Priti Jain

Respondent-in-person : Mr. Partha Bhadra

Judgement Delivered On : 26.09.2025

Supratim Bhattacharya, J.:

1. The present writ petition has been preferred by the Union of India assailing the judgment passed by the Central Administrative Tribunal, Kolkata Bench, Kolkata (for short the Tribunal) in OA No. 814 of 2023 dated 20.12.2024.

2. Factual matrix of the case

The respondent herein being an Accounts Officer in the office of the Directorate of Accounts (Postal), Ranchi was the applicant before the Tribunal. The respondent /applicant had preferred the Original Application seeking the following reliefs :

“a) Office Order dated 28.02.2022 issued by the respondents and acceptance of the notice of the applicant

for voluntary retirement by the respondent No. 2 under Rule 48(1)(a) of CCS (Pension) Rules are not tenable in the eye of law and as such the same may be quashed.

b) Office Orders dated 10.10.2022 and 21.12.2022 issued by the respondents are not tenable in the eye of law and as such the same may be quashed.

c) An Order do issue directing the respondents for consideration of the approaches of the applicant dated 23.02.2022 15.08.2022, 31.08.2022 and 07.12.2022 and thereby allowing his approach for withdrawal of his prayer for voluntary retirement and thereby allowing him to re-join and discharge his duty in the Office of the respondents at an earliest.

d) To grant all consequential benefits.”

- 3.** The said Tribunal after hearing the parties , has been pleased to pass the following:

“8. In our considered opinion, the Office Order dated 28.02.2022 is bad in law because if the applicant has decided to withdraw his VRS/resignation within the prescribed period of 03 months, then the respondents ought not to have gone ahead to grant him the VRS. The Hon'ble High Court of Kerala in the case of Faziludeen vs. Union of India & Ors.(supra) has declared the order of the VRS as null and void and quashed the order of the Ernakulam Bench of this Tribunal in this regard. So, we are in agreement with the judgment of the Hon'ble High Court of Kerala in the case of Faziludeen (supra).

9. Accordingly, the Office Order dated 28.02.2022 is quashed and set aside. Respondents are directed to take the applicant

back and he should be given joining and that from the date of 01.03.2022 till the joining, he is not entitled for any salary and that period will be considered for his notional seniority.”

It is the case of the applicant before the Tribunal that he suffered bereavement of his mother and was transferred also on 27.08.2021. He thereafter joined transferred place. The circumstances however resulted in onset of physical and mental issues.

4. The respondent/applicant being an Accounts Officer in the office of Directorate of Accounts (Postal) Ranchi, having the requisite qualifying service sent a notice of 3 months in writing dated 29.11.2021 seeking voluntary retirement. The said respondent/ applicant thereafter on 10.02.2022 sent a letter to his department seeking withdrawal of the earlier letter for voluntary retirement dated 29.11.2021
5. Thereafter the respondent applicant for the second time sent another letter dated 14.02.2022 requesting to proceed with the voluntary retirement. Thereafter he had sent another letter dated 23.02.2022 seeking withdrawal of the letter dated 14.02.2022.
6. Once again the respondent applicant sent a letter dated 28.02.2022 for the third time requesting the authority to proceed with his voluntary retirement. On the self same day that is on 28.02.2022 the concerned office accepted the prayer of the respondent seeking voluntary retirement with effect from 01.03.2022. More than 5 months thereafter, the respondent on 15.08.2022 requested to the authority concerned for his

reinstatement. He has also sent a request to the Prime Minister's office dated 31.08.2022 seeking his reinstatement. On 10.10.2022 his representation dated 15.08.2022 for reinstatement was rejected. Thereafter once again on 07.12.2022 the respondent/applicant made a representation seeking his reinstatement which was once again rejected on 21.12.2022 . The request of respondent/ applicant for reinstatement, having been rejected he preferred the Original Application before the Tribunal which has been pleased to pass the impugned order in favour of the respondent/applicant.

- 7.** Being aggrieved by and dissatisfied with the order passed by the Tribunal , the Union of India has preferred the present writ petition.
- 8.** Mr. Animesh Mukherjee, the learned counsel representing the petitioner submitted that the petitioner made a request for voluntary retirement on 29.11.2021, which was to take effect on 01.03.2022 the date of taking effect was mentioned in the petitioner's application. Even otherwise Rule 48 A(1) of the CCS (Pension Rules) allows a Government servant who fulfils the qualifying service of 20 years to retire voluntarily, subject to lapse of a notice period of 3 months. In the present case applicant completed 20 years of qualifying service and gave a notice of three months in writing to retire voluntarily.
- 9.** After submitting his application, he submitted two applications for withdrawal. One is dated 10.02.2022 and another one dated 23.02.2022

in between these two applications, on 14.02.2022, he submitted an application requesting the authorities to proceed with his VRS request.

10. However, the relevant request made by the applicant is dated 28.02.2022, i.e. on the date on which his VRS application dated 29.11.2022 was to be accepted so as to enable him to retire voluntarily on 01.03.2022 . On this date he reiterated his request to the authorities to proceed with the request for VRS dated 29.11.2021. The same was acted upon by the respondents and the petitioner's application accepted on the self same date (28.02.2022). Therefore petitioner's request dated 29.11.2021 for voluntary retirement was accepted upon reiteration of the same on 28.02.2022.

11. Thereafter petitioners relinquished charge of the post of Accounts Officer in the office of the Directorate of Accounts (Postal) at Ranchi. The charge report showing relinquishment of charge is dated 01.03.2022 and was signed by the petitioner. The request for voluntary retirement therefore attained finality.

12. The subsequent requests for reinstatement dated 15.08.2022 and 07.12.2022, therefore in our opinion was rightly rejected by the authorities.

13. The Tribunal has erred in quashing the office order dated 28.02.2022 whereby and whereunder the petitioner's request for VRS was accepted and in giving consequential directions for the petitioner's joining with effect from 01.03.2022.

14. The petitioner in person has appeared and submitted that the applications were made in immense mental pressure and during the time when he was undergoing extreme physical and mental problems due to demise of his mother and transfer. The application for VRS had been submitted under difficult circumstances when the petitioner was incapable of clearly appreciating the consequences. The moment the applicant realised his mistake he requested for reinstatement. He has also stated that the authorities have committed an error in law by accepting the request for voluntary retirement. In this connection he has placed reliance of *Faziludeen Vs. Union of India and Ors*, a judgment of the Kerala High Court wherein the Division Bench has directed reinstatement of the applicant /petitioner therein. While doing so the Kerala High Court has observed that the notice period serves a purpose to enable the applicant undertake a well considered decision about his career in case it is actuated by extraneous feelings, or emotions, or at the spur of the moment.

15. Having considered the rival submissions, we find that there is no dispute of facts with reference to dates recorded above which we refrain from recording again to avoid repetition. The fact remains that petitioner's application for VRS dated 29.11.2021, to take effect on 21.03.2022 was reiterated by the applicant on 28.02.2022 and on the self same date it was accepted. The applicant thus retired on

01.03.2022 after lapse of the notice period of three months contemplated under Rule 48 A (1) of the CCS (Pension Rules).

16. The law in this regard is quite clear that an employee after submitting an application for VRS has locus paenitentiae to withdraw such an application but till such time it is accepted.
17. In the instant case, however, the applicant reiterated his application for VRS and the same was acted upon; and thereafter the applicant also relinquished charge. More than 5 months thereafter he made a request for reinstatement which was rejected by the order of the authority dated 10.10.2022 he thereafter filed another application for reinstatement which was rejected on 21.12.2022. The VRS application filed by the petitioner therefore was accepted with the stipulation contained in Rule 48 A (1) of the CCS (Pension Rules). Such acceptance was also acted upon by the petitioner and therefore this is not a case where the applicant was left with an option otherwise.
18. No provision has been pointed out by the applicant to show that after taking effect of VRS and relinquishment of charge pursuant thereto, such employee can be reinstated. Reliance placed by the petitioner on decision, in the case *Fajiluddin (supra)* is of no avail. In that case the Kerala High Court found that the authorities therein acted with undue haste, and allowed an application for waiver of the notice period without there being any consideration of his application. The VRS application was accepted by the authorities therein within 5 days from

tendering of such an application. It is in this context that the Kerala High Court observed that the very purpose of 90 days notice was frustrated by the hasty and undue acceptance of the applicant's requests for waiver of the notice period.

19. We are therefore of the considered opinion that the judgment of the Kerala High Court relied upon by the applicant has no application to the facts and circumstances of the present case.

20. We therefore find no infirmity in the decisions of the authorities impugned before the Tribunal, whereby and whereunder the petitioner's application for VRS was accepted and his request for reinstatement was rejected by the authorities.

21. The Tribunal in our opinion has misdirected itself in allowing the relief relying on decision of the Kerala High Court in the case of *Faziludeen (supra)* which, as we have considered above was at factual variance with the present case and therefore inapplicable in the present case.

22. In support of such conclusion, we consider it apposite to refer to one of the leading decision on the point of withdrawal of resignation, passed by the Apex Court in the case of *Raj Kumar Vs. Union of India* reported in 1968 SCC OnLine SC 51, wherein the Apex Court has observed :

"5. Our attention was invited to a judgment of this Court in State of Punjab v. Amar Singh Harika¹ in which it was held that an order of dismissal passed by an authority and kept

on its file without communicating it to the officer concerned or otherwise publishing it did not take effect as from the date on which the order was actually written out by the said authority; such an order could only be effective after it was communicated to the officer concerned or was otherwise published. The principle of that case has no application here. Termination of employment by order passed by the Government does not become effective until the order is intimated to the employee. But where a public servant has invited by his letter of resignation determination of his employment, his services normally stand terminated from the date on which the letter of resignation is accepted by the appropriate authority and in the absence of any law or rule governing the conditions of his service to the contrary, it will not be open to the public servant to withdraw his resignation after it is accepted by the appropriate authority. Till the resignation is accepted by the appropriate authority in consonance with the rules governing the acceptance, the public servant concerned has locus poenitentiae but not thereafter. Undue delay in intimating to the public servant concerned the action taken on the letter of resignation may justify an inference that resignation has not been accepted. In the present case the resignation was accepted within a short time after it was received by the Government of India. Apparently the State of Rajasthan did not immediately implement the order, and relieve the appellant of his duties, but the appellant cannot profit by the delay in intimating acceptance or in relieving him of his duties.”

23. We are therefore of the considered view that the order of the Tribunal is unsustainable, the same is set aside.
24. The appeal being No. **W.P.C.T. 77 of 2025** is **allowed**.
25. Parties shall be entitled to act on the basis of the server copy of the judgment and order placed on the official website of the Court.

- 26.** Urgent certified photo copies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

I Agree,

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)