

W.P.S.T. 93 of 2024

**Dr. Nupur Banerjee
Vs.
The State of West Bengal & Ors.**

Mr. Bikash Ranjan Neogi,
Mr. Rabin Kumar Garai,
Ms. Ananya Neogi

...for the Petitioner

Mr. Tapan Kr. Mukherjee, Id. AGP,
Ms. Tuli Sinha

...for the State Respondents

1. The writ petition has been filed alleging that the petitioner's challenge to the charge memo made in the O.A. has been pending since sometime. It is submitted that the single member of the West Bengal Administrative Tribunal (hereinafter referred to as the 'S.A.T.') passed an order dated 06.02.2024 in O.A. 5 of 2024 for placing the matter before a Division Bench for further consideration under the heading "Admission Hearing". The S.A.T. is functioning without any second member for the past 2/3 years and therefore, the petitioner is left remediless in the circumstance. It is such view that we have proceeded to take up the writ petition.
2. The petitioner is a doctor serving the State Government. She has been visited with the charge memo dated 27.01.2021. The articles of charge in

the charge memo alleged various periods of unauthorised absence. One of the charges is that she has refused to resume duties even after rejection of her voluntary retirement application on 11.03.2019. The third article of charge in the charge memo is alleging acts of insubordination.

3. We have asked the learned counsel for the petitioner on what ground the charge memo has been challenged.
4. He submits that he made another application for VRS on 10.05.2019, in light of provisions contained in the Government Notification dated 20.08.1981 issued by the Finance Department. The VRS was thus to take effect within 03 (three) months from the date of submission of the same if the petitioner was not communicated any rejection or the same. According to him, three months after the application dated 10.05.2019 the petitioner stood voluntary retired from service and therefore, the charge memo dated 27.01.2021 against her was unsustainable.
5. The State is seriously disputed such submissions. It is submitted that the application for VRS being relied upon was submitted suppressing the fact of rejection of earlier VRS claim on 11.03.2019. The fact that the application for VRS was not accepted is known to the petitioner.

6. It is also submitted by the State that being a member of the Health services, the option of VRS is not available to the petitioner.
7. After issuance of charge memo on 27.01.2021 the petitioner has approached the S.A.T. by filing O.A. No. 618 of 2021 wherein the petitioner has prayed for the following relief:

“(a) A direction upon the respondents to forthwith consider and dispose of the representation submitted by the applicant praying for voluntary retirement on 10.05.2019 which is Annexure ‘C’ to this application and treat the applicant as retired from service with effect from 1st September, 2019 and allow the applicant all pension and all other retiral benefits.”

8. The admitted position, therefore which emerges from the record is that till such date the charge memo was issued, the petitioner’s VRS had not been accepted or acted upon by either parties.
9. We do not wish to enter into the entitlement of the petitioner to grant of VRS, as it is apparent from the order passed in O.A. No. 618 of 2021 that till filing of the O.A. in the year 2021 the petitioner was still claiming consideration of his application dated 10.05.2019 for VRS.
10. The petitioner was very conscious of the fact that the subsequent VRS application dated 10.05.2019 was not acted upon by either parties. The S.A.T.

in O.A. No. 618 of 2021 had passed directions upon the authorities to give a reply to the petitioner's application for VRS dated 10.05.2019.

11. We find from the records that thereafter the authorities had issued notices to the petitioner on 22.09.2023 and 08.11.2023 in this connection to grant her an opportunity in this regard.
12. We further find that the response of the petitioner dated 30.10.2023 appears to be non-compliant with the said notices. The issue regarding the application dated 10.05.2019 for VRS, and its reply under the mandate of the S.A.T. order dated 12.08.2022 passed in O.A. 618 of 2021 is not the subject matter of the present proceedings. Observations in this regard in this order are *prima facie* and shall have not persuasive value whatsoever.
13. In the present proceedings the prayer of the petitioner before the S.A.T. in O.A. No. 5 of 2024 was for quashing of the charge-sheet dated 22.01.2021. No ground has been urged challenging the charge memo, but the ground that the petitioner had taken VRS prior to issuance of the charge memo, which ground in view of the above noted admitted position emerging from prayer made in the O.A. No. 618 of 2021 is an unsustainable plea.

14. We, therefore, find no reason to pass orders for setting aside the charge memo.
15. The Writ Petition is dismissed.
16. The O.A. No. 5 of 2024 before the S.A.T. of the petitioner also stands dismissed.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)