



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 1392 OF 2025**

Sanjay Bhagwanrao Shelke

-Vs.-

State of Maharashtra and another

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders      Court's or Judge's Orders.  
or directions and Registrar's orders.  
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Ms Payal S. Kaware, Adv. for the petitioner.  
Ms.T.H.Khan, AGP for the respondents-State.  
Mr. Abhay Sambre, Adv.for the respondent No.2.

**CORAM : AVINASH G. GHAROTE &  
ABHAY J. MANTRI, JJ.**

**DATE : 9<sup>TH</sup> APRIL, 2025**

Heard Ms Kaware, learned counsel for the petitioner, Ms Khan, learned AGP for the respondent-State and Mr.Sambre, learned counsel for the respondent No.2.

2. The petition questions the decision dated 03/03/2025, by which the application filed by the petitioner dated 03/01/2025 (Pg.114), to withdraw his application for VRS dated 13/12/2024, has been rejected by the Principal District Judge, Buldhana. The necessary facts for the consideration of this petition are as under:

2.1. The petitioner was appointed as a Junior Clerk with the establishment of District Court Buldhana, on 13/12/2024 (pg.110), on account of he being denied promotion, and his juniors being promoted, feeling frustrated, gave an application for VRS stating therein, that

he feels himself incompetent to further carry out his duties. It was accepted on the same date to be effective from 13/03/2025, which is reflected from the office note dated 13/12/2024 (Pg.112 and 113).

2.2. The petitioner thereafter having cooled off and having realized his folly, filed an application on 03/01/2025, for withdrawal of the application for resignation, citing therein reasons, that his children were taking education and therefore, he did not wish to press it and was withdrawing the same (Pg.114). This application has been rejected by the impugned communication.

3. Ms.Kaware, learned counsel for the petitioner, submits, that in terms of Rule 66(5) of the MCS (Pension) Rules, 1982 (for short “said Rules”), it was permissible for an employee to withdraw his notice for retirement, the only requirement for such withdrawal being the approval of the Appointing Authority. It is contended, that since before expiry of the three months notice period, as contemplated by Rule 66(1) of the said Rules, since the application was made withdrawing the application for VRS, considering the meritorious background of the petitioner and the reasons given, the refusal on part of the Appointing Authority not to permit the withdrawal, is clearly not justified. She submits, relying upon **J.N.Shrivastava v. Union of India, (1998) 9 SCC 559**, that the very purpose of the notice period, is to permit the employee, to dwell upon and have an opportunity to reconsider the decision of taking voluntary retirement and withdraw the proposal, which was yet to

come into effect. That being the intent and purpose of the notice period, it is contended, that the same having been done, the refusal without considering the record of past services of the petitioner, was not justifiable.

4. Mr.Sambre, learned counsel for the respondent No.2, submits, that since the petitioner himself in his application for VRS had expressed his incompetency to continue with the services and the application for his withdrawal did not indicate otherwise, but spelt out some different reasons, the Appointing Authority had appointed a Committee to consider the same, which having opined otherwise, the denial of the approval for withdrawal as indicated by the impugned communication was justified.

5. We have perused the report of the Committee dated 03/03/2025 (Pg.117) as well as the impugned communication dated 03/03/2025 (Pg.23).

6. Insofar as the legal position is concerned, Rule 66(5) of the said Rules, permits an employee, to withdraw the notice for retirement given by such employee earlier, within the notice period of three months. The only requirement in this regard, is that the same can be done only with the specific approval of the Appointing Authority. Considering, that the notice for VRS, by the petitioner, is dated 13/12/2024 and the three months period, thereafter was to expire on 12/03/2025 and the notice for withdrawal is dated 03/01/2025, the requirement of submitting the application for withdrawal of the notice for retirement

stands satisfied.

7. The only question, therefore, which is to be considered, is whether the denial of approval by the Appointing Authority was justified. A perusal of the report dated 03/03/2025 as well as the impugned communication indicate, that merely the discord between the reasons put forth in the application for VRS dated 13/12/2024 and the application for its withdrawal dated 03/01/2025 have been considered and nothing else. In our considered opinion, mere discord in the reasons, in these two applications, cannot be the reason, for denial of permission, as there is bound to be discord, considering the circumstances. That apart, we find, that circumstances existed as indicated in para-9 of the petition, which may have forced the hand of the petitioner, to take the decision to tender a notice for VRS, as he found himself bypassed by his juniors for promotion, which he felt himself to be entitled. The averments in para-9 of the petition speak about the filing of Writ Petition No.7025 of 2023, by the petitioner on account of denial of promotion and also subsequent non-selection of the petitioner for promotion in a process even subsequent thereto. With the assistance of Mr.Sambre, learned counsel for the respondent No.2, we have also perused the ACRs of the petitioner, which have been placed on record by the petitioner from 2018 till 2023, which are not disputed by him, which indicate, that the conduct of the petitioner, in the performance and discharge of his duties, has been found to be not only good, but at times positively good. This would indicate to us, that the petitioner is an

industrious and hardworking fellow with integrity, and therefore, is a person worthy of continuing in the establishment. It may be a matter, that in a fit of desperation and despondency, the petitioner may have taken the action to tender his notice for voluntary resignation on 13/12/2024, considering the background of continuous denial of promotion, but later on, it appears, that he has realized his folly and come to his senses.

8. It is therefore apparent, that since neither the Committee, nor the respondent No.2 has considered the past conduct and character of the petitioner, as reflected from the ACRs for the duration 2018 to 2023, the refusal to grant approval, merely on the basis of a discord of the reasons as spelt out in the notice of VRS dated 13/12/2024 and the subsequent application for its withdrawal dated 03/01/2025, cannot be justified.

9. We, therefore, do hereby quash and set aside the impugned communication dated 03/03/2025 and by accepting the reasons given by the petitioner in his application dated 03/01/2025, as well as after considering his ACRs for the last five years, direct the respondent No.2 to grant approval to the application of the petitioner dated 03/01/2025 and resultantly, reinstate the petitioner in employment, within a period of two weeks from today. Considering the fact that the petitioner has not rendered any services from 13/03/2025 till the date of his reinstatement, the petitioner shall not be entitled to any salary for the said duration, however, he will be entitled for

continuity and all consequential benefits. The petition is allowed in the above terms. No costs.

**(ABHAY J. MANTRI,J) (AVINASH G. GHAROTE, J)**