

2025:PHHC:025485



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.

CWP-18321-2024 (O&M)

BABITA KAUSHAL

...PETITIONER

Vs.

CHAIRMAN, PUNJAB GRAMIN BANK AND OTHERS

.... RESPONDENTS

II.

CWP-12146-2024 (O&M)

BABITA KAUSHAL

...PETITIONER

Vs.

CHAIRMAN, PUNJAB GRAMIN BANK AND OTHERS

.... RESPONDENTS

**Reserved on:14.02.2025
Pronounced on: 21.02.2025**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. Rishabh Gupta, Advocate, for the petitioner.

Mr. Saurav Verma and Ms. Preeti Grover, Advocates,
for the respondents.

DEEPAK GUPTA, J.

This order shall dispose of two Writ Petitions titled above, both filed by same petitioner against her employer-respondents.

2.1 By way of CWP-12146-2024, petitioner prays for issuance of a writ in the nature of certiorari for quashing the order dated 18.04.2024 (*Annexure P-1*), whereby she has been transferred from Hoshiarpur to Shri Har Gobindpur, District Gurdaspur.

2.2 In CWP-18321-2024, prayer made by the petitioner is for issuance of a writ in the nature of certiorari for quashing of order/letter dated 27.05.2024 (Annexure P-7) and other subsequent letters, whereby she has been ordered to be retired voluntarily from her post, although petitioner had earlier moved a letter dated 28.05.2024 (Annexure P8) for withdrawing her VRS request.

3. Petitioner is Scale-I officer in the respondent-Bank. She was posted at Model Town Branch, Hoshiarpur, when she was transferred vide administrative order dated 18.04.2024 of the respondents from Hoshiarpur to Shri Har Gobindpur, District Gurdaspur. However, vide her application (*Annexure R-2 in CWP-12146-2024*) dated 20.04.2024, petitioner applied for voluntary retirement [in short 'VRS'] on medical grounds.

4. While filing CWP-12146-2024 on 17.05.2024, it is contended by the petitioner that on account of her medical condition, she had applied for medical leave on 20.04.2024 and further made representation to reconsider her case of transfer. As her request was not acceded to, she filed this petition seeking quashing of the transfer order dated 18.04.2024 by submitting that said order is in violation of the Transfer Policy, 2023 (*Annexure P-4*) as petitioner had been transferred in the last year of her service. The contention of learned counsel for the petitioner is that petitioner is due to retire on 31.07.2025 on attaining the age of superannuation. Besides, it is because of her medical condition that petitioner had applied for VRS, which was pending consideration and as such, impugned transfer order was in violation of Article 14/16 of the Constitution of India.

5. After noticing the aforesaid contentions of Ld. Counsel for the petitioner, a co-ordinate bench of this court, vide order dated 23.05.2024, while issuing notice of motion, directed to stay the operation of impugned order dated 18.04.2024.

6.1 Respondents opposed the petition by submitting that petitioner had not approached the Court with clean hands and had conceded the fact that the officer namely, Vinay Kumar had already joined at Hoshiarpur Branch on 29.04.2024 in place of the petitioner. Because of the interim stay order dated 23.05.2024 passed by this Court, an anomalous situation had arisen as two officers were sitting on the same seat, as the charge had already been handed over to Vinay Kumar on 29.04.2024 and petitioner was just sitting idle and earning salary without doing any work. It is contended that instead of complying with the transfer order, petitioner approached this Court with the false accusation that she was suffering from cervical spondylosis and attached certain documents in this regard alleging that she was unfit to travel due to her medical condition. It is stated that application of the petitioner for voluntary retirement has already been accepted on 27.05.2024 and the said fact was duly conveyed to the petitioner. She was informed that she would be relieved after completion of certain formalities. Copy of that letter is *Annexure R1*. Immediately thereafter, petitioner moved an application dated 28.05.2024 maliciously alleging that application for VRS was made by her under coercion of transfer and on medical ground to avoid long distance travelling and therefore, she did not wish to take voluntary retirement. However, it is pointed out that as per the VRS application dated 20.04.2024, the said request was made only on account of health condition.

6.2 Respondents further referred to Regulation 27(4) of the ***“Punjab Gramin Bank (Employees’) Pension Regulation, 2018”*** so as to contend that once notice for voluntary retirement has been made to the competent authority, the employee is precluded from withdrawing the notice except with the specific approval of such authority; provided that request for such withdrawal is made before intended date of retirement. It is contended that in the present case, no approval of the competent authority was taken by the petitioner, so as to withdraw her application of voluntary retirement.

6.3 It is further the contention of the respondents that petitioner cannot claim particular place of posting and that transfer being an incidence of service, any policy issued by the department serves only as a guideline. It is argued that any such policy issued by the State Government, or any such authority does not vest an enforceable right in an employee and as such, transfer policy can never be taken to pedestal of a statutory rule.

6.4 Prayer is made for dismissal of the petition.

7. I have considered submissions of both the sides and have appraised the record.

8. Petitioner has been transferred vide order dated 18.04.2024 from Hoshiarpur to Shri Har Gobindpur, a distance of less than 60 Km. Petitioner relies upon the Transfer Policy, 2023 (*Annexure P-4*) of the respondent-bank, Clause 8 (i) of which provides that "an officer will be considered for a posting to their Home Region, 3 years prior to superannuation subject to administrative convenience".

9. It has not been disputed that petitioner is due to retire on 31.07.2025, on attaining the age of superannuation. However, the question is whether the policy, as relied upon by the petitioner, vests an enforceable right in the petitioner so as to seek her posting in her Home Region or at a particular place or to be kept posted at present place of posting.

10. Transfer is an incidence of service. There is no vested right in favour of an employee to remain posted at a particular station or to be transferred on some particular post of his/her choice. As has been held by Hon'ble Supreme Court in ***State of Madhya Pradesh Vs. S.S. Kourav, 1995 (3) SCC 270,***

"4.....The courts or Tribunals are not appellate forums to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places. It is for the

administration to take appropriate decision and such decisions shall stand unless they are vitiated either by malafides or by extraneous consideration without any factual background foundation..”

11. Thus, it is clear that courts or the Administrative Tribunals are not expected to interfere in transfer matters unless the orders are vitiated either by *mala fides* or by extraneous consideration.

12. In this case, petitioner has not alleged any *mala fides* or extraneous consideration in transferring her from Hoshiarpur to Shri Har Gobindpur. Her only contention is that her transfer is against the Transfer Policy 2023. However, as per the settled legal position, transfer policies issued by the State Government or any other competent authority, containing stipulations therein, do not vest an enforceable right in the employee. The Transfer Policy can never be taken to the pedestals of a statutory Rule. These policies are at best in the nature of guidelines for the appropriate department, while issuing orders of transfer as has been held in ***Smt. Bhupa Sharma Vs. State of Haryana and others, 2017(1) SCT 428.***

13. A Division Bench of this Court has categorically held in ***Parveen Kumar Vs. State of Punjab and others, 2008(4) SCT 596*** that the transfer policy of the State for transfer and posting of its employees from one place to another is for the guidance of its officers. The guidelines are not enforceable to challenge the transfer. The transfer of a Government employee is a normal feature and incident of service and does not alter his service conditions. No employee can claim to remain posted at a particular place or post of his choice.

14. Perusal of paper-book would further reveal that soon after the transfer order dated 18.04.2024 was issued, the petitioner moved an application on 20.04.2024 seeking voluntary retirement on medical condition. Simultaneously, she applied for medical leave. She brought the present petition [CWP-12146-2024] on 17.05.2024 for quashing the transfer order and submitted that she was unable to travel due to medical condition and that she had also submitted her application for voluntary retirement,

which is pending consideration with the respondent-Bank. This Court vide order dated 23.05.2024, while issuing notice of motion, stayed operation of the impugned order dated 18.04.2024.

15. During the above period of 18.04.2024 to 23.05 2024, a period of more than one month, petitioner did not bother to join her duties at the transferred place. Rather, she continued to send emails to the respondent for extension of leave on the medical grounds, as is evident from emails (*Annexure P-6*). However, as soon as the order dated 23.05.2024 was passed by this Court, staying the operation of the impugned transfer order, petitioner approached the respondent-Bank on 27.05.2024 and moved an application (*Annexure R-4*), so as to join the duties, stating that she was medically fit, as if her sickness had evaporated in the air, the moment transfer order was stayed.

16. Above circumstances clearly indicate that taking leave on medical grounds by the petitioner was just a ruse to avoid the joining at the transfer place. It is further important to notice that after making an application for seeking voluntary retirement on 20.04.2024, petitioner did not take any step so as to withdraw the same, till she moved an application dated 28.05.2024 [*Annexure P-8 in CWP-18321-2024*] when for withdrawal of the VRS stating that it was made under coercion of transfer.

17. This contention of the petitioner is found to be false because in the application dated 20.04.2024, it was not at all mentioned that she was submitting that her application for voluntary retirement because of the transfer. Rather, she had clearly stated that she was seeking voluntary retirement because of her medical condition. Not only this, prior to 28.05.2024, when petitioner sought to withdraw her application for voluntary retirement, her request for voluntary retirement had already been accepted by the competent authority on 27.05.2024 as per *Annexure P-7 in CWP-18321-2024*.

18. Thus, what is apparent is that application for withdrawal of the application for VRS was made by the petitioner not only after getting the stay order dated 23.05.2024 from this Court, but also after the competent authority had already accepted her application for VRS vide order dated 27.05.2024. The only inference that can be drawn is that petitioner was virtually threatening the respondents either to allow her to be posted at Hoshiarpur; otherwise, she will seek voluntary retirement or will proceed on medical leave.

19. In view of above discussion of legal as well as factual matrix, this Court does not find merit in the petition [CWP-12146-2024] filed by the petitioner seeking quashing of her transfer order dated 18.04.2024. As such said petition is hereby dismissed.

20. By way of **CWP-18321-2024**, petitioner has challenged the order dated 27.05.2024 (*Annexure P7*) and sought quashing of the same. It is contended by petitioner that her application for withdrawal of voluntary retirement made on 20.04.2024 had already been rejected vide email 20.05.2024 and that after rejection thereof, she had not moved any fresh application for VRS and therefore, the order dated 27.05.2024 cannot be sustained. She has also challenged subsequent orders passed by the respondents relieving her from the post.

21. Regulation 27 of the ***Punjab Gramin Bank (Employees') Pension Regulations) 2018***, by which the services of the petitioner are governed, reads as under:-

“27. Pension on voluntary retirement.

(1) On or after the effective date, at any time after an employee has completed twenty years of qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service:

Provided that this sub-regulation shall not apply to an employee who seeks retirement from service for being absorbed permanently in an autonomous body or a public sector undertaking or a company or institution or body,

whether incorporated or not, to which he is on deputation, at the time of seeking voluntary retirement.

(2) The notice of voluntary retirement given under sub-regulation (1) shall require acceptance by the appointing authority:

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

(3)(a) An employee referred to in sub-regulation (1) may make a request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons thereof.

(b) On receipt of a request under clause (a), the appointing authority may, subject to the provisions of sub-regulation (2), consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority may relax the requirement of notice of three months on the condition that the employee shall not apply for commutation of a part of his pension before the expiry of the notice of three months.

(4) An employee, who has elected to retire under this regulation and has given necessary notice to that effect to the appointing authority, shall be precluded from withdrawing his notice except with the specific approval of such authority:

Provided that the request for such withdrawal shall be made before the intended date of his retirement.

(5) The qualifying service of an employee retiring voluntarily under this regulation shall be increased by a period not exceeding five years, subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed thirty-three years and it does not take him beyond the date of superannuation:

Provided that the increase in his qualifying service, shall not entitle him to any notional fixation of pay for the purpose of calculating his pension.”

22. From Regulation 27(4) of the Punjab Gramin Bank (Employees’ Pension Regulations) 2018, as reproduced above, it is clear that an employee who has elected to retire under this regulation is required to give a necessary notice to that effect to the appointing authority. Once such an employee has given notice for voluntary retirement, she/he is precluded from withdrawing the notice except with this specific approval of such authority. Simultaneously, it is required that the request for such withdrawal is to be made before the intended date of retirement. The twin conditions i.e. specific approval of competent authority to withdraw from the notice; and the request for withdrawal is to be made before the intended date of retirement, should exist together. Fulfilling of either one of the condition is not sufficient for successful withdrawal of notice for voluntary retirement.

23. In the present case, petitioner made application dated 20.04.2024 seeking voluntary retirement on health grounds, stating that her application be taken as three months’ notice w.e.f. 20.04.2024. The said notice period was to expire on 19.07.2024. The request of the petitioner seeking VRS was accepted by the Head Office of the respondent-Bank vide letter dated 27.05.2024 (*Annexure P-7*). It was subject to certain conditions i.e. receipt of no dues/clearance from all the departments of the Head Office as well as previous posting etc.

24. It is only after acceptance of the VRS request of petitioner by the respondent-Bank that petitioner wrote a letter dated 28.05.2024 (*Annexure P-8*) to the respondent-Bank, so as to withdraw the application for VRS stating that vide an email dated 20.05.2024, her application for VRS had not been accepted.

25. This contention of the petitioner is without any force. The email dated 20.05.2024 (*Annexure P-6*) sent by respondent Bank to the

petitioner, as referred by the petitioner in letter *dated 28.05.2024*, reads as under:-

“As per transfer orders dated 18.04.2024 you were transferred from BO Hoshiarpur (RO HSP) to BO Shri Hargobindpur (8473) RO Amritsar. You were relieved from BO Hoshiarpur on 26.04.2024 and you have not joined the BO Shri Hargobindpur yet. As per telephonic conversation with RO Hoshiarpur we get to know that you have submitted the VRS application and as per instructions received from HO your VRS application will not be accepted until you join the BO Shri Hargobindpur. Further it is conveyed to you that you will be treated absent from duties and no further extension will be provided to you.”

26. It is clear from the aforesaid email sent by the respondent-Bank to the petitioner that her application for VRS had not been rejected; rather, acceptance thereof was made subject to her joining at Branch Office, Shri Har Gobindpur, where she had been transferred. On the basis of this email, petitioner cannot claim that her application for VRS has been rejected.

27. The contention of Ld. Counsel for the petitioner that petitioner had already made an application for withdrawal of the VRS before acceptance thereof on 27.5.2024 is without any merit, as it has already been observed that there should be twin conditions for withdrawal of the application. Firstly, it should have been made prior to the intended date of retirement, which is fulfilled in this case, but the second condition that specific approval of the Competent authority for withdrawal of the VRS should be taken, has been has not been fulfilled in this case, as petitioner did not seek any permission from the competent authority for withdrawal of her application for voluntary retirement. To the contrary, the competent authority of the respondent Bank vide letter dated 17.7.2024 (*Annexure P-12*) refused to allow the petitioner to withdraw her application seeking VRS on completion of notice period and then the petitioner was relieved from Bank's services on 19.07.2024 vide *Annexure P-13*.

28. Learned counsel for the petitioner has referred to **Balram Gupta versus Union of India and another, 1987 AIR (Supreme Court) 2354** in order to contend that when withdrawal of the application for voluntarily retirement is within time prior to the expiry period, the order allowing to retire prospectively without allowing withdrawal of notice is illegal. There is no merit in the contention because in cited authority, Hon'ble Supreme Court was dealing with the case under Central Civil Services (Pension) Rules, 1972. Petitioner is not governed under those Rules. Rather, petitioner is governed by the Punjab Gramin Bank (Pension) Regulations, 2018 as has been earlier reproduced.

29. Ld. counsel for the petitioner also refers to decisions of this High Court in **A.S.I. Sat Pal Vs. State of Haryana and others, 1996(1) SCT 588, Pepsu Road Transport Corporation Patiala Vs. Bharpoor Singh, 2013 (1) RSJ 421** and **Dharam Bir Vs. State of Haryana and another [CWP-17063-2012 decided on 27.04.2015]**. None of these authorities are applicable to the facts of the present case, because in all those cases, though application for withdrawal of VRS had been made prior to the acceptance of VRS by the competent authority, but petitioners therein were governed by their different service conditions/ rules/regulations.

30. It has been held by Hon'ble Supreme Court in **Vice Chairman and Managing Director A.P.S.I.D.C. Ltd. Vs. R. Varaprasad 2003(3) SCT 919** that voluntary retirement once accepted in terms of scheme or rules cannot be withdrawn. It would be useful to refer to the observations made by Hon'ble Supreme Court in this regard, which are as follows:

18. These appeals are directed against the common order made in W.P. 15703 of 1999 and W.P. No.15742 of 1999. Respondent No. 1, Vijay Kumar, in C.A. No.4658 of 2001 and respondent No. 1, A. Simhadri, in C.A. No. 4659 of 2001 (hereinafter referred to as 'respondents') filed writ petition Nos. 15703 of 1999 and 15742 of 1999 in the High Court seeking direction to the appellant-Corporation to continue them in service till they attain superannuation. Both are covered by VRS Phase-III. The Corporation fixed 31.10.1998 as cut-off date for VRS Phase-III. Respondents Vijay Kumar and

A. Simhadri filed applications seeking voluntary retirement under the said Scheme on 31.10.1998 and 10.10.1998 respectively. Corporation accepted their options on 24.11.1998 and 27.10.1998, which were also acknowledged by the respondents on 26.11.1998 and 2.11.1998. Thereafter, they applied for withdrawal of the option given for VRS on 8.1.1999 and 26.2.1999 respectively. These respondents could not be relieved from service along with large number of other employees who were relieved on 31.7.1999 under VRS Phase-III because of the interim order granted by the High Court in the writ petitions filed by them. The Division Bench of the High Court, by the impugned order, allowed the writ petitions and directed the Corporation to continue their services till their attaining the age of superannuation. In doing so, the High Court followed the decisions of this Court in **Balram Gupta vs. Union of India & Anr. [AIR 1987 SC 2354]**, **J.N. Srivastava vs. Union of India & Anr. [AIR 1999 SC 1571]** and **Shambhu Muara Sinha vs. Project & Development India & Anr. [2000 (5) SCC 621]**. The High Court was of the view that the respondents had filed their withdrawal applications on 8.1.1999 and 26.2.1999 and had the benefit of interim directions to continue in service granted by the High Court on 30.7.1999 while they were to be relieved on 31.7.1999 and the result was that they were still in service on that date. The High Court further observed that these respondents had made the applications for withdrawal before the effective date i.e., 31.7.1999 and they having not accepted the monetary benefits under the VRS Scheme, could withdraw their applications opting for VRS. In this view, the writ petitions of these respondents were allowed. Before us, the learned counsel on both sides relied on the decision of this Court in **Bank of India & Ors. vs. O.P. Swarnakar & Ors. [(2003) 2 SCC 721]** and few other decisions. The decisions cited on behalf of the respondents do not help them. Unlike in those decisions these respondents filed applications offering to take voluntary retirement under the Scheme; their applications were accepted by the Corporation which were acknowledged by these respondents; they made representations for withdrawal from the VRS Scheme several days after the Corporation accepted their applications made seeking voluntary retirement; merely because they could not be relieved in view of the interim order passed by the High Court in the writ petitions and that they

could not be relieved immediately after the cut-off date for want of funds to be received from the Government by the Corporation, they could not take away the result or escape consequence of the acceptance of their voluntary retirement by the Corporation. In other words, question of withdrawal of their applications made for seeking voluntary retirement after their acceptance did not arise and they could not be permitted to do so in law. It is fairly settled now that the voluntary retirement once accepted in terms of the Scheme or rules, as the case may be, cannot be withdrawn. In these appeals from the facts, it is clear that the applications of the respondents opting for voluntary retirement under the Scheme were accepted and even the acceptance was communicated to them. Thereafter, they filed the writ petitions. Hence the High Court was not right in allowing the writ petitions holding that they applied for withdrawal before the effective date considering the date of relieving the employees as the effective date. In the light of the discussions made in Civil Appeal No. 5638 of 1999 the High Court, in our view, was wrong in treating 31.7.1999 as an effective date. The decisions relied on by the respondents before the High Court or in this Court on facts do not help them. Moreover, position is to be examined on the facts, terms of the VRS and circumstances governing a particular case of withdrawal offer made seeking voluntary retirement after its due acceptance.”

31. In another case titled ***M/s New Victoria Mills and others Vs. Shrikant Arya, 2021 (4) SCT 181***, it has been held by Hon’ble Supreme Court that mere delay in relieving employee from duties would not impact acceptance of his resignation.

32. In the present case, the voluntary retirement application dated 20.04.2024 of the petitioner was accepted on 27.05.2024 in terms of the relevant Regulations as applicable to the case of the petitioner and therefore, the same cannot be withdrawn. The petitioner cannot be allowed to take benefit of the interim direction given by this Court on 23.05.2024 in CWP 12146-2024, whereby order of her transfer from Hoshiarpur was stayed. Similarly, she cannot be allowed to take advantage of interim order dated 05.08.2024 passed in CWP-18321-24, whereby the operation of the

impugned order dated 27.05.2024 and subsequent orders, accepting the VRS of the petitioner were stayed. In this case, as has already been observed, that VRS application of the petitioner could not be in albeit because of the interim stay orders granted by this Court and petitioner cannot be allowed to take benefit thereof.

33. On account of entire discussion as above, this Court does not find any merit in any of the two petitions. As such, both the petitions are hereby rejected.

34. Pending applications, if any, in both the petitions, stand disposed of.

A photocopy of this order be placed on the file of connected case.

21.02.2025

Vivek

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?

Whether reportable?

Yes

Yes