



2025:DHC:4726-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 29.05.2025

+ W.P.(C) 7779/2025, CM APPL. 34406/2025

DIGVIJAY MISHRA

.....Petitioner

Through: Dr. B.T. Kaul, Mr. Pranjal
Jaiswal, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Ripudaman Bhardwaj,
CGSC with Mr. Kushagra
Kumar, Mr. Abhinav Bhardwaj,
Mr. Amit Kumar Rana, Mr.
Tanveer Singh Nanda, Advs.
for R-1
Mr. Santosh Kumar, Standing
counsel Ms. Nidhi Rani, Mr.
Kartik Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 34407/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 7779/2025 & CM APPL. 34406/2025

2. This petition has been filed challenging the Order dated 07.11.2024 passed by the learned Central Administrative Tribunal Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 3243/2024, titled ***Digvijay Mishra v. Union of India &***



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Another., whereby, the said O.A. filed by the petitioner herein was disposed of as infructuous in light of the Order dated 03.10.2024, by which the petitioner has been compulsorily retired under FR 56(j).

3. The learned counsel for the petitioner submits that the petitioner had filed the above O.A. challenging the order of retrospective extension of his suspension, which constitutes a different cause of action from the order of compulsorily retiring him under FR 56(j), which was passed during the pendency of the above O.A. He submits that the mere passing of the order of compulsory retirement cannot render the O.A., which challenges the order extending his suspension, infructuous. He further submits that merely because the petitioner could, if so advised, also challenge the suspension order in a separate petition challenging the compulsory retirement, it does not follow that the pending O.A. becomes infructuous.

4. Issue notice.

5. Notice is accepted by Mr. Ripudaman Bhardwaj, the learned CGSC on behalf of the respondent no.1, and by Mr. Santosh Kumar, the learned Standing counsel on behalf of the respondent no.2.

6. The learned counsel for the respondent no.2 supports the Impugned Order by contending that the petitioner has been compulsorily retired from service for cogent reasons, including the reason for which he had earlier been suspended from service. He further submits that the petitioner can always challenge his suspension order in a separate petition in which he can simultaneously challenge the order of his compulsory retirement.



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7. We have considered the submissions made by the learned counsels for the parties.
8. The challenge to the suspension order is an independent cause of action, for which the petitioner had already availed his remedy by filing the above O.A. During the pendency of the said O.A., the respondents have proceeded to compulsorily retire the petitioner under FR 56(j), which gives rise to a separate and distinct cause of action.
9. Merely because an additional cause of action has arisen in favour of the petitioner during the pendency of the original O.A., would not make the pending O.A. infructuous, especially when they are distinct causes of action and they are premised on different rules and submissions.
10. In our view, therefore, merely stating that the petitioner can, in the second petition, also challenge his suspension order, would not make the already filed O.A., challenging the suspension order, as infructuous.
11. For the reasons stated herein above, the Impugned Order cannot be sustained. The same is, accordingly, set aside and the O.A. No. 3243/2024 titled ***Digvijay Mishra v. Union of India & Another.***, is restored to its original number before the learned Tribunal. Let the same be listed before the learned Tribunal on 9th July, 2025.
12. As the parties are already appearing before us, there is no need to issue a fresh notice to the parties to appear on the said date.
13. At this stage, the learned counsel for the petitioner submits that the petitioner has also challenged the order of compulsory retirement



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by way of a separate O.A.

14. In view of the above, the present petition along with the pending application stands disposed of.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 29, 2025

Pallavi/sm

Click here to check corrigendum, if any