

Ct.No.1      D/L    03.02.2026  
06  
Saikat  
Mukherjee

**WP.CT/18/2025**  
**SANJAY KUMAR MISHRA**  
**VS.**  
**UNION OF INDIA AND ORS.**

Mr. Masud Karim, Adv.

...For the Petitioner

Ms. Sanjukta Bhattacharya, Adv.

Mr. Priyankar Ganguly, Adv.

...For the Respondent/  
Union of India

Per, **Partha Sarathi Sen, J.**

1. The petitioner and the Respondent-Union of India are represented by their respective learned counsels.
2. In this writ petition the judgment and order dated 30<sup>th</sup> August, 2023, as passed by the Central Administrative Tribunal, Kolkata Bench, Kolkata, (hereinafter referred to as 'the said Tribunal' in short) in O.A. No.350/00039/2023, is assailed.
3. By the impugned judgment and order the said Tribunal while dismissing the Original Application declined to interfere with the order dated 10<sup>th</sup> September, 2020, as has been passed by the Respondent No.3 whereby and whereunder the Respondent No.3 while considering the prayer of the writ petitioner came to a finding that since the writ petitioner has resigned from service and since such resignation has been accepted by the Kendriya Vidyalaya, the petitioner is not entitled to pension as per Rule 26(i) of CCS (Pension) Rules.
4. At the time of hearing, learned counsel appearing on behalf of the writ petitioner at the very outset draws our

attention to the letter dated 10<sup>th</sup> September, 2020 (Annexure-‘A5’), as issued by the Respondent No.3 authority which was under challenge in the said Tribunal in the said Original Application. It is argued that the Respondent No.3 authority while issuing impugned Memo dated 10<sup>th</sup> September, 2020, has miserably failed to visualise that true spirit of the Rule 26(i) of CCS (Pension) Rules and thus, mistakenly deprived the writ petitioner from entitlement to his pension.

5. It is further submitted that while passing the impugned judgment and order dated 30<sup>th</sup> August, 2023, the said Tribunal has equally misconstrued the provision of Rule 26(i) of CCS (Pension) Rules and thereby wrongly deprived the writ petitioner from his legitimate claim towards pension.
6. It is, thus, submitted on behalf of the writ petitioner that by passing the impugned order a serious miscarriage of justice, has occurred, which is required to be interfered in a judicial review under Article 226/227 of the Constitution of India.
7. Per contra, learned counsel for the Respondent-Union of India supports the impugned order. It is submitted that both the Respondent No.3 authority as well as the said Tribunal properly interpreted Rule 26(i) of CCS (Pension) Rules, 1972.
8. We have meticulously gone through the entire materials as placed before us. We have also given our due

consideration over the submissions made by the contending parties.

9. On careful perusal of copy of the Memo dated 10<sup>th</sup> September, 2020, issued by the Respondent No.3 authority, it appears that the Respondent No.3 authority while issuing the said Memo dated 10<sup>th</sup> September, 2020, did not consider the prayer of the writ petitioner/original applicant for granting pension quoting the provision of Rule 26(i) of CCS (Pension) Rules. On perusal of the impugned judgment and order dated 30<sup>th</sup> August, 2023, it appears to us that while scrutinising the legality, validity and correctness of the Memo dated 10<sup>th</sup> September, 2020, the said Tribunal duly considered the provision of Rule 26(i) of CCS (Pension) Rules, 1972 and thus, came to a finding that since the writ petitioner has tendered his resignation from service and since the same has been accepted by his employer, there is hardly any scope to sanction pension in favour of the writ petitioner, as prayed for.

10. We have also noticed that in the impugned judgment and order the said Tribunal has quoted the relevant Rule, that is, Rule 26(i) of CCS (Pension) Rules, 1972, which is again quoted hereunder in verbatim:-

***“Resignation from a service or post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.”***

11. We have independently applied our mind over the aforementioned quoted Rule and it appears to us that the said Rule clearly mandates that in the event an

incumbent resigns from service or post unless it is allowed to be withdrawn in the public interest by the appointing authority, the said resignation gives rise to forfeiture of past service. Proper interpretation of the aforementioned Rule, thus, clearly indicates that if an employee resigns from service or in the event the same is accepted he is not entitled to any benefit like pension on account of his past service.

12. It is pertinent to mention herein that before the said Tribunal the acceptance of resignation as tendered by the writ petitioner was not under challenge and, therefore, while deciding the instant writ petition we cannot go into the legality and validity of the same sitting in a judicial review.

13. In our considered view, the view taken by the said Tribunal is quite plausible one. In further considered view of us, there is hardly any scope to interfere with such finding. We, thus, find no merit in the instant writ petition.

14. Accordingly, WP.CT 18 of 2025 is **dismissed** and Admission is **declined**.

15. No order as to costs.

**(SUJOY PAUL, CJ.)**

**(PARTHA SARATHI SEN, J.)**