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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5492/2026 & CM APPL. 26929/2026**

DR. AKHILESH KUMAR DUBEY

.....Petitioner

Through: Mr. Shaurya R. Rai, Mr. Rahul
Bhaskar, Advocates.

versus

GOVERNMENT OF NCT OF DELHI AND ORSRespondents

Through: Mr. Rahul Sharma, ASC with Mr.
Mani Kant, Ms. Shikha Singh, Mr.
Rohit Rana, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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23.04.2026

1. The Petitioner, serving as Assistant Horticulture Officer (AHO) at Netaji Subhas University of Technology ("NSUT"), submitted a notice seeking Voluntary Service Retirement ("VSR") on 15th January, 2026. It is his case that, upon expiry of the statutory notice period of three months, the voluntary retirement "became effective" under the applicable rules on 16th April, 2026, there being no lawful refusal within the stipulated period. On this basis, the present petition seeks a declaration to that effect.
2. The Petitioner further assails the communication dated 30th March, 2026 issued by Respondent No. 2, whereby his request for voluntary retirement has been stated to be "withheld". It is the Petitioner's case that such withholding is *dehors* the applicable rules and is vitiated by *mala fide*, particularly attributable to Respondent No. 3, Dr. Neeraj Kumar, Faculty In



Charge (Horticulture). Consequential reliefs for release of retiral and pensionary benefits are also sought.

3. The controversy lies in a narrow compass. It is not in dispute that the Petitioner submitted a notice seeking voluntary retirement. The response of the Respondents is reflected in the Office Note dated 30th March, 2026, which reads as follows:

“NETAJI SUBHAS UNIVERSITY OF TECHNOLOGY
A STATE UNIVERSITY UNDER DELHI ACT 06 OF 2018, GOVT. OF
NCT OF DELHI
(FORMERLY NETAJI SUBHAS INSTITUTE OF TECHNOLOGY)
Azad Hind Fauj Marg, Sector-3, Dwarka, New Delhi – 110 078

No.F. 122(167)/98-Estt./NSIT/ 1974

Dated: 30/3/2026

OFFICE NOTE

This refers to your application dated 15.1.2026 seeking Voluntary Retirement from the services of the University. It has been reported that during your tenure, several horticulture works were executed under your direct supervision in respect of which the final measurements and settlement of payments are still pending.

In order to examine and finalize the pending payments, different committees have already been constituted, and in some cases, committees are proposed to be constituted for verification of records and finalization of measurements.

The concerned committees are entrusted with examining, verifying and finalizing the measurements of the above works based on available and relevant records. Your presence before the committees will be mandatory.

Therefore, in view of above, your request dated 15.1.2026 for voluntary retirement under Rule 48-A of CCS (Pension) Rules, 1972 from the services of the University is withheld at this stage.

You are further directed to:

- 1. Provide all relevant records and documents to the concerned committees to facilitate smooth and timely finalization of measurements and settlement of pending bills.*
- 2. Hand over all relevant documents, and records pertaining to day to day Horticulture activities at NSUT Main & West Campus to the Sanitary Inspector, In-charge Horticulture (Main & West Campus) immediately.*
- 3. To provide your all cooperation during inquiries and fully cooperate with the constituted committees and complete handing over of all*



official records.

*(Mukesh Kumar Sharma)
Deputy Registrar (Admn.)”*

4. A perusal of the aforesaid communication shows that the Respondents have not rendered a final decision on the Petitioner’s request. The note records that certain horticulture works executed during the Petitioner’s tenure are under examination, with issues relating to measurements and settlement of payments pending consideration by constituted committees. In that context, the Petitioner’s presence has been stated to be necessary, and the request for voluntary retirement has, therefore, been “withheld at this stage.”

5. The impugned action has been taken with reference to Rule 48-A of the CCS (Pension) Rules, 1972, which reads as under:

“48-A. Retirement on completion of 20 years’ qualifying service

(1) At any time after a Government servant has completed twenty years’ 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-rule shall not apply to a Government servant, including scientist or technical expert who is -

<i>(i)</i>	<i>on assignments under the Indian Technical and Economic Cooperation (ITEC) Programme of the Ministry of External Affairs and other aid programmes,</i>
<i>(ii)</i>	<i>posted abroad in foreign based offices of the Ministries/Departments,</i>
<i>(iii)</i>	<i>on a specific contract assignment to a foreign Government,</i>

unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (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) – Omitted

(3-A)	(a)	<i>Government servant referred to in sub-rule (1) may make a request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefor;</i>
	(b)	<i>on receipt of a request under clause (a), the appointing authority subject to the provisions of sub-rule (2), may 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 Government servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.</i>

(4) Government servant, who has elected to retire under this rule and has given the 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 withdrawal shall be made before the intended date of his retirement.

(5) Omitted vide notification GSR No.928 (E), dated 21st December, 2012 [F.No.38/80/08-P&PW(A)]

(6) This rule shall not apply to a Government servant who –

(a)	<i>retires under Rule 29, or</i>
(b)	<i>retires from Government service for being absorbed permanently in an autonomous body of a public sector undertaking to which he is on deputation at the time of seeking voluntary retirement.</i>

EXPLANATION. - *For the purpose of this rule the expression "appointing authority" shall mean the authority which is competent to make appointments to the service or post from which the Government servant seeks voluntary retirement.*

Footnote:

1. Deleted by G.I., Dept. of Per. & A.R., Notification No. 32/2/83-Pension



- Unit, dated the 26th August, 1983. Takes effect from the 10th September, 1983.*
- 2. Inserted by G.I., Dept. of Per. & A.R., Notification No. 31/3/80-Pension Unit, dated the 5th March, 1981.*
- 3. Inserted by G.I., M.F., Notification No. 7(2)-E.V(A)/73, dated 28th November, 1978.*
- 4. Inserted by G.I., Dept. of P. & PW, Notification No. 38/15/85-Pension Unit, dated the 1st July, 1985, published as S.O. No. 3324 in the Gazette of India, dated the 20th July, 1985 and takes effect from that date.*
- 5. Substituted vide G.I., Dept. of P. & PW, Notification No. 2/18/87 P. & PW. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.”*

6. Sub-rule (2) of Rule 48-A stipulates that a notice of voluntary retirement requires acceptance by the appointing authority. The proviso thereto provides that where permission is not refused before expiry of the notice period, retirement shall become effective from the date of such expiry.

7. In the present case, however, the material on record indicates that the Respondents have neither granted acceptance nor taken a final decision refusing permission; instead, the request has been kept in abeyance pending examination of issues noted in the Office Note dated 30th March, 2026. In these circumstances, it cannot be held, at this stage, that the contingency contemplated under the proviso, namely, absence of refusal within the notice period, stands attracted so as to automatically bring about voluntary retirement by operation of law.

8. The Petitioner's claim that he must be deemed to have retired on 16th April, 2026, therefore, does not merit acceptance at this stage. Consequently, the prayer for release of retiral dues and pensionary benefits, founded on such deemed retirement, is premature and misconceived.



9. As regards the allegation of *mala fides* against Respondent No. 3, this Court does not find any ground, on the basis of the impugned communication as it presently stands, to return a finding in that regard in these proceedings.

10. It is, however, clarified that the Respondents have yet to take a final decision on the Petitioner's request for voluntary retirement. Upon such decision being taken, it shall be open to the Petitioner to avail of such remedies as may be available to him in accordance with law, including raising all permissible grounds.

11. The petition is, accordingly, disposed of along with pending application(s), if any.

SANJEEV NARULA, J

APRIL 23, 2026/ab