



2026:CGHC:23368



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Order reserved on 16/02/2026

Order delivered on 15/05/2026

WPS No. 3823 of 2015

**1 - Lalman Singh Netam S/o Shri Vishnu Singh Netam, Aged About 45 Years
R/o Village Sonhat, Tahsil Sonhat, District Koriya Chhattisgarh , Chhattisgarh**

... Petitioner(s)

versus

**1 - The State Of Chhattisgarh Through Its Secretary, Revenue And Disaster
Department, Mantralaya, Naya Raipur, District Raipur Chhattisgarh ,
Chhattisgarh**

**2 - The Collector, Baikunthpur, District Koriya Chhattisgarh , District : Koriya
(Baikunthpur), Chhattisgarh**

**3 - Sub Divisional Officer R , Sonhat District Koriya Chhattisgarh , District :
Koriya (Baikunthpur), Chhattisgarh**

... Respondent(s)

For Petitioner(s) : Mr. Parag Kotecha, Advocate.

For Respondent(s) : Mr. Ashutosh Trivedi, and Mr. Vikhyat Arora, Panel
Lawyers.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

C.A.V. Order

1. The present writ petition has been filed by the petitioner under Articles 226 and 227 of the Constitution of India challenging the legality, validity and propriety of the impugned order dated 06.10.2015 (Annexure P/12) passed by respondent No. 3/Sub Divisional Officer (Revenue), Sonhat,



District Koriya, whereby the resignation submitted by the petitioner from the post of Patwari has been accepted with retrospective effect. The case of the petitioner is that initially he had submitted an application for resignation on 28.06.2013 and thereafter submitted an application seeking voluntary retirement on 10.07.2013, which was accepted by the competent authority. Subsequently, on the application preferred by the petitioner seeking reinstatement, the order of voluntary retirement was cancelled and the petitioner was reinstated in service vide order dated 26.09.2015, pursuant to which he joined duties on 28.09.2015. According to the petitioner, after acceptance of his joining and reinstatement in service, the respondent authorities had no jurisdiction to review their earlier decision and thereafter accept the resignation of the petitioner retrospectively vide impugned order dated 06.10.2015. Alleging the impugned action to be arbitrary, mala fide, illegal and contrary to the settled principles of service jurisprudence, the petitioner has prayed for the following reliefs in the writ petition:-

- I. quash/set aside the order dated 06/10/2015 (Annexure P/12) issued by the respondent no. 3.
- II. direct the respondents to reinstate the petitioner in service to the post of Patwari, along with full salary/back wages and all consequential and other benefit and all arrears of salary.
- III. direct the respondents to produce the entire record pertaining to petitioner case.
- IV. Any other relief which this Hon'ble Court deems fit and proper under the facts and circumstances of the case may also be passed in favour of the petitioner and the cost of the petition may be awarded in favour of the petitioner."



2. The brief facts of the case are that the petitioner was appointed on the post of Patwari on 21.04.1994 by respondent No. 3, who is also the appointing and disciplinary authority. It is stated that the petitioner initially submitted an application dated 28.06.2013 seeking resignation from service for personal reasons, however, before the same could be accepted, he submitted an application dated 10.07.2013 seeking voluntary retirement under Rule 42(1)(a) of the Chhattisgarh Civil Services (Pension) Rules, 1976, which came to be accepted vide order dated 05.09.2013. Thereafter, upon learning that he was not entitled to pensionary benefits on account of deficiency in qualifying service, the petitioner submitted an application dated 18.02.2015 seeking reinstatement in service along with an affidavit stating that he had neither received any retiral dues nor accepted any other employment. Considering the same, respondent No. 3 reinstated the petitioner in service vide order dated 26.09.2015 with a condition of “no work no pay” for the intervening period, pursuant to which the petitioner joined duties on 28.09.2015. According to the petitioner, after publication of certain news reports against him on 04.10.2015, the respondent authorities acted in haste and with mala fide intention and passed the impugned order dated 06.10.2015 accepting the petitioner’s earlier resignation with retrospective effect and cancelling the reinstatement order. The petitioner contends that once he had been reinstated and permitted to join duties, the respondent authorities had no jurisdiction to review the earlier order and accept the resignation retrospectively, and therefore, the impugned action is illegal, arbitrary and liable to be set aside.



3. Learned counsel for the petitioner submits that the impugned action of the respondents in retrospectively accepting the alleged resignation of the petitioner and cancelling his reinstatement is wholly illegal, arbitrary, mala fide, without jurisdiction, and violative of Articles 14 and 311 of the Constitution of India as well as the settled principles of natural justice. It is submitted that the petitioner had initially submitted an application dated 28.06.2013 before respondent No. 2, who was not the competent authority to entertain or accept the same, and the said application was not even in the prescribed format. Before any action could be taken on the said application, the petitioner submitted an application dated 10.07.2013 seeking voluntary retirement under Rule 42(1)(a) of the Chhattisgarh Civil Services (Pension) Rules, 1976 before the competent authority i.e. respondent No. 3, which was duly accepted vide order dated 05.09.2013. Learned counsel submits that the earlier resignation application automatically became redundant and deemed to have been withdrawn. Thereafter, the respondents themselves processed the petitioner's retiral dues including gratuity and pension. Subsequently, upon learning that he had fallen short of the qualifying service for pension due to amendment in the Pension Rules, the petitioner sought reinstatement and respondent No. 3, after due consideration, reinstated him vide order dated 26.09.2015 with the condition of "no work no pay," pursuant to which the petitioner resumed duties on 28.09.2015.
4. Learned counsel further submits that after publication of certain newspaper reports on 04.10.2015, the respondents acted in a hurried and vindictive manner and, without issuing any notice or affording any



opportunity of hearing to the petitioner, illegally revived the stale resignation application and retrospectively accepted the same while simultaneously cancelling the orders relating to voluntary retirement and reinstatement on 06.10.2015. It is submitted that once the petitioner had been reinstated and had resumed duties, there remained no surviving resignation application capable of acceptance. The entire action was undertaken without jurisdiction, without adherence to due process of law, and in gross violation of the principles of natural justice. Learned counsel submits that the impugned order has serious civil consequences affecting the petitioner's livelihood, reputation, and service career, and therefore the same could not have been passed without following lawful procedure. It is thus prayed that the impugned orders being illegal, arbitrary, mala fide, and unconstitutional deserve to be quashed and the petitioner be granted all consequential service benefits. He would rely upon the judgments in "**Shahzad Khan vs. State of M.P.**", 2025 MPHC-GWL 14517, and "**National Textile Corporation (M.P.) Ltd. vs. M.R. Jhadha**", (2008) 7 SCC 29.

5. Per contra, learned State counsel submits that the petitioner is not entitled to any relief as the impugned order dated 06.10.2015 has been passed strictly in accordance with law and after noticing the illegality committed in granting voluntary retirement to the petitioner. It is submitted that the petitioner, while serving as Patwari, had initially submitted an application for resignation on 28.06.2013. Thereafter, he submitted an application seeking voluntary retirement, which was accepted vide order dated 05.09.2013. However, upon scrutiny of the petitioner's service record and pension case, it was found that on the



relevant date the petitioner had completed only 19 years, 04 months and 14 days of qualifying service and was aged about 42 years, 08 months and 03 days. Therefore, he did not satisfy either of the statutory conditions prescribed under Rule 42(1)(a) of the Chhattisgarh Civil Services (Pension) Rules, 1976 for seeking voluntary retirement, namely completion of 20 years of qualifying service or attainment of the prescribed age. Consequently, the order granting voluntary retirement was contrary to the mandatory provisions of the Pension Rules and was void ab initio. The illegality was further noticed when the District Treasury Officer, Koriya, while scrutinizing the pension case, raised objections vide communication dated 21.08.2014 specifically pointing out that the petitioner's voluntary retirement had not been granted in accordance with Rule 42(1)(a) of the Chhattisgarh Civil Services (Pension) Rules, 1976.

6. Learned State counsel further submits that although, on the petitioner's representation, an order dated 26.09.2015 was issued reinstating him in service by modifying the earlier order of voluntary retirement, the competent authority subsequently examined the entire matter and found that the petitioner had already submitted a resignation application dated 28.06.2013. Accordingly, by order dated 06.10.2015, the earlier reinstatement order was cancelled and the petitioner's resignation was accepted. It is submitted that no vested right accrued in favour of the petitioner on the basis of an order which was itself founded upon an erroneous and illegal grant of voluntary retirement contrary to statutory rules. The respondents have merely rectified the mistake and restored the legal position in accordance with service



rules. The petitioner cannot seek continuation in service or consequential benefits on the strength of an order passed contrary to law. Therefore, the writ petition being devoid of merit, substance, and any enforceable legal right deserves to be dismissed.

7. I have heard learned counsel for the parties and perused the material annexed with the petition.
8. The undisputed facts of the case reveal that the petitioner initially submitted an application for resignation on 28.06.2013 while serving on the post of Patwari. Subsequently, he submitted an application seeking voluntary retirement, which came to be accepted by the competent authority vide order dated 05.09.2013. However, the record further demonstrates that on the date when the order of voluntary retirement was passed, the petitioner had completed only 19 years, 04 months and 14 days of qualifying service and was about 42 years of age. Thus, admittedly, the petitioner did not fulfill either of the essential conditions prescribed under Rule 42(1)(a) of the Chhattisgarh Civil Services (Pension) Rules, 1976 for seeking voluntary retirement. The District Treasury Officer also raised objection with regard to the legality of the voluntary retirement granted to the petitioner. Therefore, the order dated 05.09.2013 accepting voluntary retirement was clearly contrary to the statutory provisions governing the field and could not confer any enforceable legal right upon the petitioner.
9. The principal contention advanced on behalf of the petitioner is that after issuance of the reinstatement order dated 26.09.2015 and acceptance of his joining on 28.09.2015, the respondents had no jurisdiction to accept his earlier resignation vide impugned order dated



06.10.2015. This Court is unable to accept the said submission. It is well settled that no right can accrue on the basis of an order which is itself contrary to statutory provisions. Since the petitioner was not eligible for voluntary retirement under Rule 42(1)(a) of the Chhattisgarh Civil Services (Pension) Rules, 1976, the acceptance of his voluntary retirement and the consequential order reinstating him in service were founded upon an erroneous premise. The competent authority was therefore justified in revisiting the matter and rectifying the mistake once the illegality came to its notice.

10. It is necessary to notice here Rule 42(1)(a) of the **Chhattisgarh Civil Services (Pension) Rules, 1976** which provides as under:-

"42. Retirement on completion of [20 years] qualifying service. - [(1) (a) A Government servant may retire at any time after completing 20 years qualifying service, by giving a notice in Form 28, to the appointing authority at least three months before the date on which he wishes to retire or on payment by him of pay and allowances for the period of three months or for the period by which the notice actually given by him falls short of three months :

Provided that where the Government servant giving such notice is under suspension, he shall not be allowed to retire from service without the prior permission in writing of the appointing authority.

(b) The appointing authority may in the public interest require a Government servant to retire from service at any time after he has completed [20 years qualifying service or he attains the age of 50 years whichever is earlier], with the approval of the State Government by giving him three months notice in Form 29 :

Provided that such Government servant may be retired forthwith and on such retirement the Government servant shall be entitled to claim a



sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing then immediately before his retirement or, as the case may be, for the period by which such notice falls short of three months."

11. Rule 42(1)(a) of the Chhattisgarh Civil Services (Pension) Rules, 1976, contemplates that voluntary retirement by the employee after completion of the prescribed qualifying service. The government servant may retire at any time after completion of 20 years qualifying services or after attaining 50 years of age, whichever is earlier. In the present case, the petitioner does not qualify both the criteria, yet he was voluntary retired, therefore, the acceptance of voluntary retirement has been withdrawn by the respondent no. 3 vide order dated 26.09.2015, and he was reinstated on his post. Despite the sequence of events with respect to the voluntary retirement of the petitioner vide order dated 05.09.2013 and his reinstatement dated 26.09.2015, that after about 02 years, the relationship of employer and employee has already seized in that period. The petitioner made an application on 18.02.2015, annexure P/7, that his voluntary retirement is in violation of the pension rules 1976, therefore, he may be reinstated.
12. It is necessary to notice here that the petitioner had earlier made an application on 28.06.2013, annexure P/1, resignation from the service. From the document annexure P/11, it transpires that the petitioner made his application for resignation from services to contest State Legislative Assembly election, and thus he was clearly intended to resign from the service. The said application dated 28.06.2013 for resignation from the service was pending for its consideration, and during its pendency, he made application on 10.07.2013 under Rule



42(1)(a) of the Pension Rule 1976 for voluntary retirement.

13. The said application was allowed, however, he could not possessed the qualifying service for consideration of voluntary retirement application, and the petitioner was reinstated from 04.09.2013 on the basis of no work no pay. However, his application for resignation was pending before the authorities, and the same has not been withdrawn by the petitioner even in his application dated 18.02.2015, annexure P/7. He has not made his contention that he wants to withdraw his application. After giving resignation from service, he contested the State Legislative Assembly election. Thereafter, he was reinstated. When the reinstatement of the petitioner was questioned, the authorities have accepted his application for resignation dated 28.06.2013, and his reinstatement order dated 26.09.2015 is cancelled, and in consequence, the order dated 05.09.2013 (wrongly mentioned as 05.09.2015 in order dated 06.10.2015, annexure P/12) also cancelled and accepted his resignation application.
14. The petitioner is not entitled to reinstatement after lapse of considerable time of about 2 years, particularly when the relationship of employer and employee had already been ceased and he already contested Legislative Assembly election in the month of November, 2013. No statutory provision permitting restoration to service has been shown. The competent authority was, therefore, justified in re-visiting and correcting the erroneous orders. Had the petitioner been withdrawn his resignation application, which was made on 28.06.2013, the petitioner may be permitted to continue in service, however, before its acceptance, it was not withdrawn. During the pendency of the said



application dated 28.06.2013, the petitioner made his application for voluntary retirement on 18.07.2013, and cannot automatically presume to be withdrawn the application for resignation dated 28.06.2013.

15. The record further reflects that the petitioner had admittedly submitted an application for resignation dated 28.06.2013. The mere fact that he subsequently submitted an application seeking voluntary retirement would not, by itself, render the resignation non-existent, particularly when the application for voluntary retirement was found to be legally unsustainable for want of fulfillment of the statutory eligibility conditions. In such circumstances, the decision of the competent authority to accept the resignation cannot be said to be without jurisdiction or contrary to law. The petitioner has failed to establish any statutory provision prohibiting the competent authority from taking into consideration the resignation already submitted by him while rectifying the earlier erroneous orders.
16. So far as the plea regarding violation of principles of natural justice is concerned, this Court finds that no prejudice has been demonstrated by the petitioner. The foundational facts regarding his date of appointment, length of qualifying service, age and submission of resignation application are not disputed. The petitioner was admittedly not eligible for voluntary retirement under the applicable rules. In such circumstances, mere absence of a prior hearing would not by itself render the impugned order liable to be set aside when no different consequence could legally have followed. The law is equally settled that principles of natural justice are not to be applied in a ritualistic manner where no prejudice is shown to have been caused.



17. The allegation that the impugned action was prompted by newspaper reports or was actuated by mala fides also does not merit acceptance. Except for making bald allegations, the petitioner has not placed any cogent material on record to establish mala fide exercise of power by the authorities. Allegations of mala fides are required to be pleaded and proved with specific particulars, which are conspicuously absent in the present case. On the contrary, the material available on record indicates that the authorities acted upon the objection regarding the petitioner's ineligibility for voluntary retirement and proceeded to correct the earlier error committed in granting such benefit.
18. The employee initially submitted an application dated 28.06.2013, tendering application and before any express withdrawal thereof, he submitted another resignation from service. Subsequently, during the subsistence of the said applicable service rules. The subsequent application for voluntary retirement, application dated 10.07.2013 seeking voluntary retirement under the viewed in the backdrop of the earlier resignation, clearly indicates that the employee intended to sever his relationship with service in order to become eligible mode of cessation from service. Mere submission of the subsequent application for voluntary retirement cannot ipso facto be construed as automatic withdrawal of the earlier resignation unless the later application contains a clear and unequivocal expression indicating intention to withdraw or abandon the resignation already tendered. At the same time, the conduct of the employee in seeking voluntary retirement, which presupposes continuance in service and claim to retirement benefits under the statutory rules, is a relevant circumstance for



determining his real intention. Further, from the application Annexure P-4, the intention of the petitioner is clear that he wanted to get the retirement benefits, for that he moved his application for voluntary retirement. Therefore, the effect of the subsequent application is required to be gathered from the language employed therein, the surrounding circumstances, and the manner in which the employer understood and acted upon both applications. In the absence of any explicit recital withdrawing the resignation dated 28.06.2013, it cannot be presumed as a matter of law that the resignation stood automatically withdrawn merely because an application for voluntary retirement was subsequently submitted on 10.07.2013.

19. The subsequent application dated 10.07.2013 seeking voluntary retirement, though not containing an express recital withdrawing the earlier resignation dated 28.06.2013, is required to be examined in the light of the intention of the employee and the surrounding circumstances. Since both applications were submitted for the common purpose of contesting the election, the later application for voluntary retirement may indicate that the employee intended to substitute the earlier request of resignation by seeking cessation from service through a different statutory mode so as to secure retirement benefits admissible under the service rules. Nevertheless, implied withdrawal or substitution of resignation cannot be readily inferred in the absence of a clear and unequivocal intention reflected from the subsequent application or the conduct of the employee. Therefore, unless the materials on record demonstrate that the employee consciously abandoned the earlier resignation and intended the application for



voluntary retirement to operate in its place, the resignation dated 28.06.2013 cannot be deemed to have been automatically withdrawn merely because a subsequent application for voluntary retirement was submitted on 10.07.2013.

20. In the case of **Shahzad Khan** (supra), the Madhya Pradesh High Court (Gwalior Bench) relates to withdrawal of the voluntary retirement application before its acceptance and the acceptance is actually worked out. Here the withdrawal application of the voluntary retirement was accepted and the petitioner was reinstated on the basis of *no work no pay*. However, while considering the application filed by the petitioner for resignation, which was made on 28.06.2013, the same had not been withdrawn and was accepted vide order dated 06.10.2015. Therefore, his voluntary retirement cancellation dated 26.09.2015. Therefore, the judgment of Shahzad Khan is distinguishable on the facts and circumstances of the present case. Another judgment cited by the learned counsel for the petitioner i.e., **M.R. Jhadha**, (supra) also relates to the benefits of a voluntary retirement scheme after its acceptance. However, in the present case, the petitioner himself made an application for withdrawal of his voluntary retirement on 18.02.2015, Annexure P/7, on the ground that on the date of his voluntary retirement he had not qualified the required length of service and age, therefore, he may be reinstated in service. Therefore, no benefit could be extended to the petitioner from the cited judgment. Further, the application for resignation made by the petitioner from the post of Patwari, dated 28.06.2013, Annexure P/1, was accepted by the authorities, as the same was not withdrawn



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before its acceptance and remained pending for consideration.

21. In view of the aforesaid analysis, this Court is of the considered opinion that the petitioner has failed to demonstrate any illegality, perversity, arbitrariness or jurisdictional error in the impugned order dated 06.10.2015 (Annexure P/12) warranting interference in exercise of powers under Article 226 of the Constitution of India.
22. Consequently, the writ petition being devoid of merit deserves to be and is hereby **dismissed**. No order as to costs.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Alok