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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10133/2020**
RAJESH KUMARPetitioner

Through: Mr. Raj Singh Phogat, Adv.
versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Sahil Munjal, Sr. PC with
Ms. Rhea Gandhi, Adv. for UOI/R-1 to R-3
Mr. T.P. Singh, Sr. CGSC for R-4.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **07.11.2025**

C. HARI SHANKAR, J.

1. While working as Pradhan Sahayak Engineer in the Indian Coast Guard, the petitioner applied for the post of Senior Scientific Officer¹ Grade-II (Electrical) in the Directorate General of Aeronautical Quality Assurance² on 15 August 2016, pursuant to an advertisement issued by the Union Public Service Commission³. He applied for the interview for the said post, conducted by the UPSC on 1 June 2017. The UPSC recommended the name of the petitioner for appointment to the post of SSO-II.

2. Thereafter, on 22 June 2017, the petitioner addressed the following communication to the respondents, seeking permission to retire voluntarily from service, which reads thus:

¹ "SSO", hereinafter

² "DGAQA", hereinafter

³ "UPSC", hereinafter



“APPLICATION FOR VOLUNTARY
RETIREMENT (VR)
RAJESH KUMAR PSE (AL), NO 07385-P

Sir,

1. I Rajesh Kumar, PSE(AL), No.07385-P joined Indian Coast Guard on 27 Oct 1994 and completed more than 22 years, 08 Months of service. I have applied in the Union Public Service Commission (UPSC) New Delhi for the post of Senior Scientific Officer Grade-II (Electrical)[(SSQ-II(Electrical))] in the Directorate General of Aeronautical Quality Assurance (DGAQA), Ministry of Defence (MoD) and qualified the UPSC examination. The UPSC New Delhi has recommended my name to the Secretary to the Govt. of India for the post of SSO-II(Electrical) in DGAQA, MoD. The ‘NO Objection Certificate’ for applying/ appearance for the subject post/examination has been obtained from the Bureau of Naviks, Mumbai.

2. The UPSC has intimated that the offer of appointment will be made only after the Government has satisfied themselves after inquiry as may be considered necessary in all respects for appointment to the service and that you are in good mental and bodily health and free from any physical defects.

3. Presently, I am holding the uppermost rank i.e. PSE of the cadre in Indian Coast Guard since 01 Nov 2012. My appointment as SSO-II (Electrical) in DGAQA, Ministry of Defence will provide me following benefits:-

- (a) Enhancement of status from ‘Group B Non-Gazetted’ to ‘Group A Gazetted’.
- (b) Enhancement of pay level from level-8 to level -10 in Pay Matrix.
- (c) Opportunity to begin second carrier post retirement.

4. Considering, the requirement of requests for discharge from service to reach Bureau through concerned Administrative Authority at least 04 months prior to date of VR/ Discharge/ Release for processing the case with Coast Guard Headquarters and time required completing DGAQA formalities, it is my humble request to consider my case for voluntary retirement from the date of appointment in DGAQA (which will be intimated by DGAQA in short notice) or within three months from the date of acceptance of my request by the Competent Authority, *whichever is earlier* and forward the same to the Competent Authority for approval.

Sd.

(Rajesh Kumar)
PSE (AL)
No. 07385-P.”



3. It is clear, from para 4 of the aforesaid communication that the petitioner had unequivocally applied for voluntary retirement. The letter, however, makes the voluntary retirement applicable from the date of appointment in the DGAQA or within three months from the date of acceptance of the request for voluntary retirement by the competent authority, *whichever is earlier*.

4. The application of the petitioner was recommended by his Commandant on 30 June 2017 and further forwarded by the Regional Commander with the relevant records on 8 August 2017. On the 94th day from the submission of the said application, the Bureau of Naviks⁴ wrote to the petitioner on 26 September 2017, stating that the offer of appointment of the petitioner had not been annexed to the application for Voluntary Retirement Scheme⁵. As such, the petitioner was directed to submit the offer of appointment and propose a fresh date for VRS.

5. This communication was apparently not issued with proper application of mind, as the very prayer of the petitioner in his application for VRS was that the VRS should take effect from the date when he was appointed by the DGAQA. As such, there was no question of the offer of appointment from the DGAQA accompanying the application for VRS.

⁴ “BUVIK”, hereinafter

⁵ “VRS”, hereinafter



6. Be that as it may, the petitioner's headquarters responded to the BUVIK on 8 November 2017, stating that the offer of appointment had yet to be issued and extended the terminal date for VRS to 31 December 2017. Prior thereto, on 24 November 2017, the following communication was addressed by the respondents to the BUVIK:

FROM	BUVIK	TELE : 022-25580191 FAX : 022-25568562 E-MAIL: buvik@indiancoastguard.nic.in
TO	CGRHQ(A&N)/RAPO	FAX : 03192-235613
RPT	CGAE(PBR)	FAX : 03192-231796
FILE	252/5	NO OF PAGES: 01
DATE	24/11/2017	

VOLUNTARY RETIREMENT FROM
SERVICE
RAJESH KUMAR, PSE (AL), 07385-P

1. REFER TO CGRHQ(A&N) FAX 252/N/07385-P DATED 08 NOV 17.

2. IT IS REQUESTED THAT THE ABOVE MENTIONED SO BE ADVISED TO FORWARD HIS REQUEST FOR 'TECHNICAL RESIGNATION' ALONGWITH OFFER OF APPOINTMENT SINCE DGAQA IS A CENTRAL GOVT ORGANISATION.

Sd.
(N PRAKASH KUMAR)
ASST COMMANDANT
STAFF OFFICER (ADMIN)
FOR OFFICER-IN-CHARGE"

7. It is clear, from the aforesaid communication, that there was no rejection of the petitioner's request for voluntary retirement even till this date.



8. The petitioner was appointed by the DGAQA as SSO-II on 18 January 2018. As per his application of voluntary retirement dated 22 June 2017, therefore, the voluntary retirement would have become effective from this date.

9. Nonetheless, even if we were to extend the date from which the voluntary retirement would become effective to the date when the respondents were informed of the petitioner's appointment by the DGAQA, we find that, on 1 February 2018, the petitioner's Commandant wrote to the BUVIK, informing the BUVIK that the petitioner had been appointed by the DGAQA on 18 January 2018.

10. As such, at the very least, the petitioner's voluntary retirement, even as per his application, would have become effective from 1 February 2018. Till that date, there was no rejection, by the respondents, of the petitioner's request for voluntary retirement. It was only after this date, on 8 February 2018, that the respondents wrote to the headquarters of the petitioner, stating that the petitioner was required to submit his technical resignation or remain in the Coast Guard.

11. Mr. Raj Singh Phogat, learned Counsel for the petitioner submits that, under such compulsions, the petitioner submitted his technical resignation on 15 February 2018, whereafter he was discharged on 5 March 2018. He joined the DGAQA formally on 12 March 2018.



12. Mr. Raj Singh first relies on para 3(viii) of Office Memorandum dated 26 August 1977, issued by the Department of Personnel and Training, which, in the concluding part of the said paragraph, presumes an application for voluntary retirement to take effect at the expiry of three months from the application, if there is no rejection of the application prior thereto. He also places reliance, in this context, on a judgment of the Supreme Court in **State of Haryana v S.K. Singhal**⁶, particularly on para 13, 18 and 20 of the said decision.

13. We have considered the submissions.

14. There is a borderline distinction between the decision of the Supreme Court in **S.K. Singhal** and the present case. The rule that was applicable in **S.K. Singhal** stated that the application for voluntary retirement *shall* take effect on the expiry of three months, unless it was rejected prior thereto. *Per contra*, the rule applicable in the present case states that there would be a *presumption* of acceptance of the application for voluntary retirement on the expiry of three months from the date of voluntary retirement.

15. That presumption may not be available to the petitioner, as the petitioner himself made his voluntary retirement effective only from the date of appointment in DGAQA or at the expiry of three months from the date of acceptance of his request for voluntary retirement, whichever was earlier.

⁶ (1999) 4 SCC 293



16. Even by that reckoning, however, as we have noted, the petitioner's voluntary retirement would take effect on 1 February 2018. Till 1 February 2018, there was no rejection, by the respondents of the petitioner's request for voluntary retirement. Applying that principle in **S.K. Singhal**, therefore, the petitioner stood voluntarily retired from service on 1 February 2018. The subsequent communications from the respondents to the petitioner to take technical resignation and the petitioner's compliance therewith, which, according to Mr. Raj Singh, was under compulsion, cannot undo the effect of the voluntary retirement of the petitioner which had taken effect on 1 February 2018 at the very latest.

17. As such, the petitioner would be entitled to the benefit of Rule 48(A) of the Central Civil Services (Pension) Rules, 1972⁷.

18. We, accordingly, declare that the petitioner should be treated as having voluntarily retired from service with effect from 1 February 2018 and entitled to the benefit of Rule 48(A) of the CCS (Pension) Rules, 1972 and to have his pensionary benefits computed treating the petitioner to have voluntarily retired from the services of the Coast Guard on 1 February 2018.

19. Consequential payments, which may have to be released to the petitioner consequent to the order passed by us today, shall be disbursed to the petitioner within a period of three months from today, failing which they shall carry interest @ 12% per annum till the date of actual payment.



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20. The writ petition stands allowed to the aforesaid extent with no order as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

NOVEMBER 7, 2025/gunn

⁷ “CCS (Pension) Rules, 1972