



2025:DHC:10833-DB



\$~83

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

+ **W.P.(C) 15733/2025**

KULDEEP SINGH

.....Petitioner

Through: **Mr. Himanshu Gautam, Adv.**

versus

UNION OF INDIA & ORS.

.....Respondents

Through: **Mr. Vijay Joshi, CGSC with
Mr. Shubham Chaturvedi, Adv.**

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

%

02.12.2025

OM PRAKASH SHUKLA, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India, assailing order dated 24.01.2025, whereby the petitioner's request to withdraw his application for voluntary retirement was rejected. The petitioner also seeks reinstatement in service with consequential benefits.

2. Shorn off unnecessary details, the petitioner joined the Indian Coast Guard on 27.10.1994. After serving for about 30 years, he applied for voluntary retirement from service on compassionate grounds on 19.07.2024 (w.e.f. 31.01.2025).

3. The reasons for voluntary retirement cited by the petitioner included deteriorating health of his wife and a recent accident suffered



by the petitioner himself, which resulted in a head injury. It was further stated that the petitioner was suffering from other medical ailments, and in that regard, it was noted that he had been placed in the low medical category for primary hypertension and obesity in earlier Medical Board proceedings. It was also stated that the petitioner's parents were suffering from *geriatric ailments* and that the responsibility for their care rested solely on the petitioner.

4. Further, the abovementioned request for voluntary retirement by the petitioner was found to be genuine and was, therefore, recommended for consideration by the Commandant, Coast Guard Region (North-East), on 23.08.2024.

5. In the meantime, on 25.09.2024, the Medical Board assessed the petitioner as falling under Low Medical Category (S2A2 (P) PMT), on account of obesity, malignant neoplasms of frontal lobe and primary hypertension.

6. Pursuant to the recommendation, the petitioner's request came to be accepted and approved by the competent authority on 09.12.2024 under Rule 27 of Coast Guard (General) Rules, 1986, with effect from 31.01.2025, read with Rules 42/43 of Central Civil Service (Pension) Rules, 2021.

7. However, *vide* communication dated 23.12.2024, the petitioner sought to withdraw his application for voluntary retirement, citing improvement in his spouse's health condition along with various other financial commitments of the petitioner including higher education of his children, their marriage, and an existing loan of Rs. 10 lakhs.



8. Thereafter, *vide* letter dated 03.01.2025, the competent authority declined the petitioner's request for withdrawal on grounds that the medical condition of the petitioner's spouse was chronic in nature, and that the petitioner had not furnished any medical documents to prove any improvement in her condition. It was further observed that the financial commitments/liabilities cited by the petitioner were pre-existing at the time when the petitioner first sought voluntary retirement.

9. In consequence thereof, the impugned order dated 24.01.2025 was passed by the respondents, rejecting the request of the petitioner seeking withdrawal of voluntary retirement.

10. In view of the aforesaid findings and the rejection of his withdrawal request, the petitioner contends that he was effectively compelled to retire from the Indian Coast Guard on 31.01.2025.

11. Aggrieved by the aforesaid, the petitioner has approached this Court by way of this present writ petition seeking reinstatement in service with full consequential benefits and thereby, permitting the petitioner to continue in service till superannuation.

12. At the very outset, we find that the present matter is squarely covered by the law laid down in *Balram Gupta v. UOI*¹, *JN Srivastava v. UOI*² and the recent judgments rendered by us in *Kande Mahender v. UOI & Ors.*³ and in *Birander Singh Ex DC v. UOI &*

¹ 1987 SCC OnLine SC 682

² (1998) 9 SCC 559

³ Judgment dated 27 August 2025 in WP (C) 2320/2025



*Ors.*⁴

13. Nevertheless, we have heard the submissions advanced by learned Counsel of both the parties.

14. Mr. Gautam, learned Counsel on behalf of the petitioner seeks parity. In this regard, he brought the attention of this Court to a case of a similarly situated officer whereby the respondents had allowed his request for withdrawal of voluntary retirement. The learned Counsel emphatically stressed upon the similarity of the grounds taken by the said officer, i.e., family and financial commitments including marriage of son and a pending loan. The learned Counsel further places reliance on the decisions of this Court in *Kande Mahender* and *Birander Singh*.

15. Mr. Vijay Joshi, learned CGSC for the respondents, resisted the claim of the petitioner on grounds that there was no substantial change in circumstances from when the petitioner had opted for voluntary retirement and when he requested for the cancellation of the same. The learned Counsel further relied on para 30 of the decision in *UOI & Ors. v. Wg Cdr Subrata Das (19942-H)*⁵ to submit that there is no absolute right to withdraw a request for voluntary retirement from service.

16. Upon considering the submissions of the learned Counsel for both the parties, at this stage, it is pertinent to note that the petitioner's

⁴ Judgment dated 17 September 2025 in WP (C) 13289/2023

⁵ (2020) 12 SCC 784



case falls under Rule 27⁶ of the Coast Guard (General) Rules, 1986⁷.

17. It has been settled in *Kande Mahender* that, unlike Rule 27A of the General Rules relating to ‘retirement’, there is no explicit bar on the withdrawal of an application for voluntary retirement. Consequently, an employee may withdraw such an application even after it has been accepted by the competent authority, the only caveat being that such withdrawal must be sought before the voluntary retirement takes effect. This Bench, in the said decision, also underscored that the competent authority shall not be rigid in its approach in such matters. We are therefore persuaded to adjudicate the present matter in the light of the aforesaid proposition which, even as on today, holds the ground and in view of the fact that no judgments to the contrary have been placed before us by the learned Counsel for the Respondents.

18. Further, in *Balram Gupta*, the Supreme Court laid down the criteria governing withdrawal of voluntary retirement. The benchmark so established is the existence of some material change in circumstances. At the cost of burdening this judgment with the background of the said decision, it may be conveniently mentioned

⁶ “27. **Procedure for discharge/release or retirement on own request.** - (1) A member of the Coast Guard may, in exceptional cases, obtain his discharge, release or retirement from the service on extreme compassionate grounds, i.e. in cases where it is clear that undoubted material hardship will be caused to the member of the Coast Guard or his family members by his retention in the service.

(2) The Central Government or the Additional Director General may, having regard to the circumstances of any case, permit discharge, release or retirement of an officer from the service before attaining the age of retirement. The question of discharge, release or retirement shall be a matter within the discretion of the Central Government or Deputy Director General as the case may be.

(3) The Additional Director General in the Coast Guard Headquarters may discharge, release or retire a member of the Coast Guard other than an officer on compassionate grounds.

(4). Application for discharge, release or retirement on compassionate grounds shall be forwarded by the Commanding Officer through the Regional Commander, to Coast Guard Headquarters for further necessary action.”

⁷ “General Rules” hereinafter



herein that the employee concerned therein, after opting for voluntary retirement, was discouraged by his colleagues from seeking voluntary retirement, which persuaded him to withdraw the same. The Supreme Court opined that even such dissuasion amounted to *material change in circumstances*. It was opined as follows:

*“12. In this case the guidelines are that ordinarily permission should not be granted unless the officer concerned is in a position to show that there has been a material change in the circumstances in consideration of which the notice was originally given. In the facts of the instant case such indication has been given. The appellant has stated that on the persistent and personal requests of the staff members he had dropped the idea of seeking voluntary retirement. We do not see how this could not be a good and valid reason. It is true that he was resigning and in the notice for resignation he had not given any reason except to state that he sought voluntary retirement. We see nothing wrong in this. **In the modern age we should not put embargo upon people's choice or freedom. If, however, the administration had made arrangements acting on his resignation or letter of retirement to make other employee available for his job, that would be another matter but the appellant's offer to retire and withdrawal of the same happened in such quick succession that it cannot be said that any administrative set-up or arrangement was affected. The administration has now taken a long time by its own attitude to communicate the matter. For this the respondent is to blame and not the appellant.**”*

(emphasis supplied)

19. The abovementioned view was followed in *JN Srivastava* as follows:

“3. ...It is now well settled that even if the voluntary retirement notice is moved by an employee and gets accepted by the authority within the time fixed, before the date of retirement is reached, the employee has locus poenitentiae to withdraw the proposal for voluntary retirement. The said view has been taken by a Bench of this Court in the case of Balram Gupta v. Union of India [1987 Supp SCC 228 : 1988 SCC (L&S) 126 : (1987) 5 ATC 246]. In view of the aforesaid decision of this Court it cannot be said that the appellant had no locus standi to withdraw his



2025:DHC:10833-DB



proposal for voluntary retirement before 31-1-1990...”

(emphasis supplied)

20. From the facts on record in the present case, it is evident that petitioner made the request for voluntary retirement on 19.07.2024 and chose to withdraw from the voluntary retirement on 23.12.2024, i.e., well before the voluntary retirement was to take effect on 31.01.2025. Thus, he had the *locus poenitentiae* to withdraw the proposal of voluntary retirement as on 23.12.2024 and this Court does not find any infirmity in the said act of the petitioner.

21. As per *Balram Gupta*, a withdrawal of voluntary retirement may be permitted if there exists substantial change in circumstances between the instance when voluntary retirement is sought and when it is requested to be withdrawn. In the present case, the petitioner cited several such circumstances, including, *inter alia*, the improvement in his own health and that of his spouse, an outstanding loan and his responsibilities pertaining to the education and marriage of his children. These reasons clearly fall within the four corners of “material change of circumstances”.

22. Further, advertent to the case of another similarly situated employee/officer who was permitted to withdraw his application for voluntary retirement, we find that reasons cited by the said employee were identical to those cited by the petitioner herein. Yet, the respondents have tendered no explanation as to why such divergent approach and “pick and choose” policy has been adopted, or in the alternative, what distinguishes the petitioner from the said employee/officer. This discrimination also falls foul of the



constitutional guarantee of right to equality enshrined under Article 14 of our Constitution.

23. In the absence of any cogent justification for such differential treatment, we see no reason why a different stance ought to have been taken with respect to the petitioner, especially since the other employee/ officer cited only two reasons, which were identical to those of the petitioner, whereas the petitioner, in addition, had cited further grounds of more serious nature.

24. It is also pertinent to note that the rejection order is a *simpliciter* rejection, devoid of any reasoning, which is inconsistent with the very epitome of the principles of natural justice and fair play. This lack of reasoning in the impugned order further renders it unsustainable in law.

25. The reliance placed by the learned CGSC on *Subrata Das*, is of no avail to the respondents, since it stands clarified in *Kande Mahender* that *Subrata Das* does not render the law laid in *Balram Gupta* and *JN Srivastava* inapplicable.

26. In view of all the aforesaid aspects and the law laid down in the decisions cited above, we find that the petitioner cited cogent grounds for withdrawal of his application for voluntary retirement. Further, we find that the impugned rejection order dated 24.01.2025 is unsustainable in the eyes of law and is hereby quashed and set aside. Accordingly, the request for withdrawal of the application seeking voluntary retirement dated 23.12.2024 shall be deemed as accepted by the respondents.



2025:DHC:10833-DB



27. Therefore, the petitioner is entitled to be reinstated in service with all consequential benefits, including continuity in service, however the same would be without any back wages, in view of the principle of “no work, no pay”.

28. However, the monetary benefits to which the petitioner would be entitled would be subject to the petitioner’s returning the amounts which have been paid to him consequent to acceptance of his voluntary retirement.

29. The writ petition is allowed in the aforesaid terms. No order as to costs.

OM PRAKASH SHUKLA, J.

C. HARI SHANKAR, J.

DECEMBER 2, 2025/gunn