



2025:CGHC:52371-DB  
**AFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPS No. 2078 of 2025**

Order reserved on: 14-10-2025

Order delivered on: 28-10-2025

Order uploaded on: 28-10-2025

M.L. Yadav, S/o Late J.P. Yadav, Aged 56 years, R/o Village Tehka,  
Post Datrengi, Bhatapara, Distt. Baloda Bazr-Bhatapara (C.G.)

**... Petitioner**

**versus**

1. Union of India, Through the General Manager, South East Central Railway, New G.M. Building, Bilaspur, Chhattisgarh, 495004
2. Divisional Railway Manager, South East Central Railway, Raipur (C.G.) 490008
3. Senior Divisional Operations Manager, South East Central Railway, Raipur (C.G.) 492008
4. Divisional Personnel Officer, Divisional Office, Personnel Branch, South East Central Railway, Raipur (C.G.) 492008
5. Assistant Personnel Officer, South East Central Railway, Raipur (C.G.) 492008

**... Respondents**

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For Petitioner : Mr. Rajesh Kumar Kesharwani and Ms. Shrijita Kesharwani, Advocates.

For Respondents : Mr. Ramakant Mishra, Deputy Solicitor General of India and Mr. Rishabh Dev Singh, Central Government Counsel.

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**Division Bench: -**  
**Hon'ble Shri Sanjay K. Agrawal and**  
**Hon'ble Shri Radhakishan Agrawal, JJ.**

**CAV Order**

**Sanjay K. Agrawal, J.**

1. Invoking the writ jurisdiction of this Court under Article 226/227 of the Constitution of India, the petitioner herein has filed this writ petition calling in question legality, validity and correctness of the impugned order dated 24-2-2025 passed by the Central Administrative Tribunal, Jabalpur Bench (Circuit Sitting at Bilaspur) in Original Application No.319/2017, by which his original application has been dismissed by the learned CAT holding that his application for withdrawal of voluntary retirement from service has rightly been rejected by the respondents.
2. The aforesaid challenge has been made on the following factual backdrop: -
3. The petitioner herein, the then Chief Station Manager at Railway Station Dagori, submitted an application seeking voluntary retirement from service (VRS) for his personal reasons on 17-2-2016 (Annexure P-2) to the competent authority. However, he has clarified his application by memo dated 22-3-2016 (Annexure P-3) that his VRS be considered after two months from the grant of 7<sup>th</sup> Pay Commission benefits. Thereafter, it is the case of the petitioner that he has submitted an application seeking withdrawal of his VRS request on 12-5-2016 (Annexure P-4) which was received by the respondents on 16-5-2016 and on the same day, the competent authority accepted his VRS with effect from 16-5-2016 and issued

order Annexure P-5 retiring him from service, which was received by him on 18-5-2016. Against the order granting VRS dated 16-5-2016, he preferred an appeal before the appellate authority on 19-5-2016 vide Annexure P-6 and ultimately, his appeal was rejected on 5-1-2017 vide Annexure P-9 citing that he had already applied and accepted for engagement as ATVM (Automatic Ticket Vending Machine) facilitator at Bhatapara Railway Station. Questioning that order, the petitioner preferred an original application as indicated above, which was dismissed by the learned CAT by the impugned order dated 24-2-2025 (Annexure P-1) leading to filing of this writ petition. The learned CAT has held that the petitioner has not been able to show that there is any valid reason for withdrawal of his request for VRS nor he has indicated any change in circumstances and consequently declined to entertain the original application.

4. The respondents herein/Union of India has taken a stand that the petitioner's VRS was accepted on 16-5-2016 by the competent authority and after acceptance of VRS, letter dated 12-5-2016 was received in the Office of the Senior Divisional Personnel Officer on 16-5-2016 and even it was not addressed to the competent authority and further, voluntary retirement of the petitioner had already been accepted by the respondents in accordance with Rule 67 of the Railway Services (Pension) Rules, 1993 (for short, 'the Rules of 1993') and the order of the competent authority granting VRS to the petitioner with effect 16-5-2016 was already circulated on 16-5-2016 itself to all concerned including the petitioner herein. The petitioner

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had also taken the benefit to be engaged as ATVM facilitator vide his application dated 16-5-2016 treating himself to be a retired employee. It is also the case of the respondents that memo dated 18-5-2012 (Annexure R-4) of the Government of India (Bharat Sarkar), Ministry of Railways (Rail Mantralaya) (Railway Board) states that only retired Railway employees of any department should be employed as facilitators and the maximum age limit for appointment of such facilitators has been increased to 65 years and considering the request made by the petitioner, the petitioner has been engaged as facilitator of ATVM.

5. Mr. Rajesh Kumar Kesharwani, learned counsel appearing on behalf of the petitioner, would submit that the learned CAT is absolutely unjustified in dismissing the original application filed by the petitioner, it ought to have been seen that in terms of Rule 67(1) of the Rules of 1993, notice of not less than three months in writing is required to be given to the appointment authority for getting VRS which the petitioner has served on 17-2-2016 and as per the proviso to Rule 67(4) of the Rules of 1993, the request for withdrawal can be made before the intended date of his retirement. He would further submit that in this case on 17-2-2016, the application for VRS was submitted by the petitioner giving three months notice and the intended date of his retirement was 17-5-2016, and he has filed application for withdrawal of his VRS application on 12-5-2016, which was received in the concerned office on 16-5-2016, therefore, his application was well within the time and as such, it could not

have been refused by the competent authority and accordingly, the impugned order passed by the learned CAT deserves to be set aside. He would rely upon the decision of the Supreme Court in the matter of **Balram Gupta v. Union of India and another**<sup>1</sup> to hold that notice of voluntary retirement can be withdrawn at any time before retirement becomes effective notwithstanding any rule providing for obtaining of specific approval of the concerned authority as condition precedent to withdrawal of notice, which has been further followed in the matter of **Dr Suman V. Jain v. Marwadi Sammelan Through its Secretary and others**<sup>2</sup>. As such, the impugned order deserves to be set aside and the writ petition deserves to be allowed.

6. Mr. Ramakant Mishra, learned Deputy Solicitor General of India appearing on behalf of the respondents/Union of India, would oppose the writ petition and submit that the competent authority has accepted the VRS of the petitioner with effect from 16-5-2016 and at that time, the petitioner's application dated 12-5-2016 for withdrawal of his VRS request has been received on 16-5-2016 which has duly been communicated to him on 18-5-2016. Thereafter, the petitioner admitting himself to be a retired employee had applied for engagement as ATVM facilitator at Bhatapara on 10-6-2016 which was considered by the Divisional Railway Manager, Raipur on 14-9-2016 and the Senior Divisional Commercial Manager on 28-6-2016, allowed him to work as ATVM facilitator at

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<sup>1</sup> 1987 (Supp) SCC 228

<sup>2</sup> (2024) 13 SCC 598

Bhatapara. As per the Railway Board circular dated 18-5-2012, only retired Railway employees are eligible for such engagement and hence, the petitioner having taken the benefit of ATVM facilitator has admitted his status as retired from service and has taken voluntary retirement from service and thus, the principle of estoppel squarely applies to the petitioner who having accepted post-retirement engagement as ATVM facilitator cannot now turn around to claim that he continues to be in service. Mr. Mishra, learned Deputy Solicitor General of India, also placed reliance upon the decision of the Supreme Court in **Balram Gupta** (supra) and would submit that in that view of the matter, the writ petition deserves to be dismissed affirming the order of the learned CAT. He would further rely upon the decision of the Supreme Court in the matter of **North Zone Cultural Centre and another v. Vedpathi Dinesh Kumar**<sup>3</sup> followed in the matter of **Shriram Manohar Bande v. Uktranti Mandal and others**<sup>4</sup> to buttress his submissions.

7. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
8. Voluntary retirement is an option given to a public servant to retire from service on the fulfillment of the specified terms and conditions, and is a condition of service which (unless a different intendment is disclosed) gives an option in absolute terms to a public servant to

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<sup>3</sup> (2003) 5 SCC 455

<sup>4</sup> 2024 INSC 337

voluntarily retire after giving the requisite notice and after he has reached the qualifying age or rendered the qualifying service, as the case may be.

9. In the matter of **Tek Chand v. Dib Ram**<sup>5</sup>, a 3 Judge Bench of the Supreme Court catalogued the three categories rules relating to voluntarily retirement, namely:

(a) Where voluntary retirement automatically comes into force on expiry of notice period;

(b) Where retirement comes into force unless an order is passed during the notice period withholding permission to retire;

(c) Voluntary retirement does not come into force unless permission to this effect is granted by the competent authority.

10. The Supreme Court in the matter of **Bank of India and others v. O.P. Swarnakar and others**<sup>6</sup> held that judicial review of a VRS under Article 226 of the Constitution of India is maintainable, and observed as under: -

“121. ... The appellants herein are “State” within the meaning of Article 12 of the Constitution of India. The questions raised by the writ petitioners thus could be raised in a proceeding under Article 226 of the Constitution of India. Furthermore, in the event it be held that the action of the appellants was arbitrary and unreasonable, the same would attract the wrath of Article 14 of the Constitution of India. Furthermore, the right of the employee to continue in employment, which is a fundamental right under Article 21 of the Constitution of India could not have been taken away except in accordance with law. ...”

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<sup>5</sup> (2001) 3 SCC 290

<sup>6</sup> (2003) 2 SCC 721

11. Now, in view of the aforesaid principles of law, we shall proceed to notice the rule in question permitting retirement on completion of 20 years qualifying service i.e. Rule 67 of the Railway Services (Pension) Rules, 1993, which states as under: -

**“67. Retirement on completion of 20 years qualifying service.**—(1) At any time after a railway 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 railway servant including Scientists or technical expert who is—

- (i) on assignment under the Indian Technical and Economic Cooperation (ITEC) Programme of the Ministry Affairs and other aid programmes;
- (ii) posted abroad in foreign-based offices of the Ministries or Department;
- (iii) on a specific contract assignment to a foreign Government unless, after having been transferred to India, he has resumed the charge of a 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) (a) A railway 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;

(b) 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



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relax the requirement of notice of three months on the condition that the railway servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(4) A railway 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.

xxx    xxx    xxx”

12.A careful perusal of the aforesaid rule would show that after completion of 20 years of service, a railway servant can apply for voluntary retirement from service by giving three months' notice to the appointing authority. Sub-rule (2) of Rule 67 of the Rules of 1993 clearly mandates that notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority. If 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 notice period. Sub-rule (3) of Rule 67 provides that the appointing authority is vested with power to dispense with the requirement of three months' notice, if curtailment of period of notice will not cause any administrative inconvenience with a condition that the railway servants can apply for commutation of part of their pension only after the expiry of notice period. By virtue of sub-rule (4) of Rule 67, the railway servant, who has been elected to retire under Rule 67 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. The proviso appended to sub-rule (4) of Rule 67 further mandates that the request for withdrawal shall be made before the intended date of his retirement.

13.The Supreme Court in **Balram Gupta** (supra) was considering Rule 48-A(4) of the Central Civil Services (Pension) Rules, 1972, which is pari materia provision to Rule 67 (4) of the Rules of 1993 and held that notice of voluntary retirement can be withdrawn at any time before retirement becomes effective notwithstanding any rule providing for obtaining of specific approval of the concerned authority as condition precedent to withdrawal of notice and authority is not entitled to refuse to grant approval for the withdrawal in absence of any reason showing disturbance in administrative set up or arrangement as a result of such withdrawal.

14.Furthermore, following the decision of the Supreme Court in **Balram Gupta** (supra), their Lordships in **J.N. Srivastava v. Union of India and another**<sup>7</sup> held 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.

15.Moreover, in **Dr Suman V. Jain** (supra), the Supreme Court relying upon **Balram Gupta** (supra) further held that withdrawal

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<sup>7</sup> (1998) 9 SCC 559

of prospective resignation prior to effective date is permissible, in absence of any rule/regulation to contrary. Relying upon its Constitution Bench decision in the matter of **Union of India v. Gopal Chandra Misra**<sup>8</sup>, their Lordships of the Supreme Court in **Dr Suman V. Jain** (supra) observed as under: -

“14. As per the law laid down by the Constitution Bench, the prospective or intending resignation would be complete and operative on arrival of the indicated future date in the absence of anything contrary in the terms and conditions of the employment or contract. The intimation sent in writing to the competent authority by the incumbent employee of his intention or proposal to resign from his office/post from a future specified date can be withdrawn at anytime before it becomes effective.”

16. Coming to the facts of the instant case in light of the principles of law laid down by their Lordships of the Supreme Court in the above noted judgment, it is quite vivid that by virtue of Rule 67 (1) of the Rules of 1993, the petitioner had served three months' notice to his appointing authority on 17-2-2016. Now, the question would be how to calculate three months' period, it would be actually three months or 90 days.

17. The Supreme Court in the matter of **State of Himachal Pradesh and another v. Himachal Techno Engineers and another**<sup>9</sup> dealing with Section 34(3) of the Arbitration and Conciliation Act, 1996, which also uses the term “three months”, held that the legislature did not intend that the period of three months used in sub-section (3) to be equated to 90 days, nor intended that the

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8 (1978) 2 SCC 301

9 (2010) 12 SCC 210

period of thirty days to be taken as one month and further held that when the period prescribed is three months (as contrasted from 90 days) from a specified date, the said period would expire in the third month on the date corresponding to the date upon which the period starts. As a result, depending upon the months, it may mean 90 days or 91 days or 92 days or 89 days.

18. In the instant case, three months' notice period started from 17-2-2016, the date on which the petitioner has given his application for VRS to the competent authority and three months as described in Rule 67(1) of the Rules of 1993 ended on 16-5-2016 and the intended date of his retirement would be with effect from 17-5-2016, therefore, he was required to submit application for withdrawal on or before 16-5-2016 and admittedly, as per own showing of the respondents, the petitioner had filed application for withdrawal of VRS on 16-5-2016 itself, whereas, the intended date of his voluntary retirement was 17-5-2016. Therefore, the application for withdrawal ought not to have been refused by the competent authority on any other ground and also in light of the decision of the Supreme Court in **Balram Gupta** (supra) that notice of voluntary retirement can be withdrawn at any time before retirement becomes effective notwithstanding any rule providing for obtaining of specific approval of the concerned authority as condition precedent to withdrawal of notice as provided under Rule 67 (3) of the Rules of 1993. Accordingly, the impugned order rejecting the request for withdrawal of application for VRS passed by the competent

authority affirmed by the learned CAT, both, are set aside in light of the decision of the Supreme Court in **O.P. Swarnakar's** case (supra) as right of employee to continue in employment under Article 21 of the Constitution of India could not be taken away except in accordance with law. It is held that the petitioner has withdrawn his application for VRS before the intended date of retirement that was 17-5-2016 and he had not retired pursuant to his application for VRS.

19. Now, the question would be what consequential benefits the petitioner is entitled for?

20. Admittedly, in this case, after grant of above-stated voluntary retirement, the petitioner made an application on 10-6-2016 for engaging himself as ATVM facilitator at Bhatapara Railway Station, which facility can be availed only by a retired Railway employee as per Circular No.33 of 2012 dated 18-5-2012 (Annexure R-4) and the petitioner was allowed to be engaged as ATVM facilitator by order of competent authority dated 28-6-2016, which he has availed and therefore the petitioner having availed the benefit of post-retirement engagement, would not be entitled for consequential benefits, as the petitioner cannot be allowed to blow hot and cold and cannot be allowed to take consequential benefit on the one hand and take advantage by getting himself engaged as ATVM facilitator on the other hand. As such, it would be inequitable to grant consequential benefits to the petitioner, who was engaged as ATVM facilitator at Bhatapara Railway Station after his VRS.

Consequently, the petitioner is not entitled for any consequential benefits, though we have quashed the order rejecting his application for withdrawal of voluntary retirement.

21. The decisions relied upon by the Union of India/respondents herein in **North Zone Cultural Centre** (supra) followed in **Shriram Manohar Bande** (supra) would be inapplicable to the facts of the present case in view of the submissions made by learned counsel for the parties.

22. In view of the aforesaid submissions, the impugned order rejecting the application for withdrawal of VRS passed by the competent authority affirmed by the learned CAT are hereby set aside, but the petitioner would not be entitled for any consequential benefits, in view of the findings reached by us herein-above. The writ petition accordingly stands finally disposed of with no order as to cost(s).

Sd/-  
(Sanjay K. Agrawal)  
**Judge**

Sd/-  
(Radhakishan Agrawal)  
**Judge**