

(2026) 08 CAL CK 2989
In the Calcutta High Court
Case No : W.P.S.T. 125 of 2024

Dr. Sanjoy Bhattacharya

APPELLANT

Vs

State of West Bengal & Ors.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

West Bengal Service Rules — Rule 75(aaaa), 75 (aaa), (aaaa)
West Bengal Services (Death cum Retirement Benefit) Rules, 1971 — Rule 59

Citation : (2026) 08 CAL CK 2989

Hon'ble Judges : Madhuresh Prasad, J;Prasenjit Biswas, J

Bench : Division Bench

Advocate : Mr. Gokul Chandra Chakraborty, Mr. Aditya Shit, Ms. Chandreyi Alam, Ld. AGP, Ms. Runu Mukherjee

Final Decision : Dismissed

Judgement

MADHURESH PRASAD, J.:

1. Heard the learned advocate for the writ petitioner/applicant and the learned AGP.

2. The claim of the original applicant before the West Bengal Administrative Tribunal (for short ?Tribunal?) was for acceptance of his application for voluntary retirement said to have been submitted on 24.02.2020. The petitioner?s claim has been rejected by the authorities by a communication dated 16.12.2020. He has been directed to continue discharging his duties by referring to Rule 75(aaaa) of the West Bengal Service Rules (for short ?WBSR?).

3. The learned advocate for the writ petitioner/applicant submits that the petitioner?s application for voluntary retirement was under the West Bengal Services (Death cum Retirement Benefit) Rules, 1971 (for short ?DCRB Rules?). He has drawn attention of the Court towards Rule 59 of the same to submit that the application was made under Rule 59 of the DCRB Rules. Therefore, rejection referring to provisions in the WBSR is unsustainable.

4. He has further submitted that since the petitioner had submitted an application for voluntary retirement and no decision was communicated to him within three months from the date of submission of such application, there is a deemed acceptance of the application contemplated under the extant rules.

5. In this connection he has relied upon decision of the Hon^{ble} Supreme Court of India in the case of ***State of Haryana and Others –Vs.- S.K. Singhal*** reported in **(1999) 4 SCC 293**. He has also relied upon another decision of the Hon^{ble} Supreme Court of India in this regard in the case of ***Tek Chand –Vs.- Dile Ram*** reported in **(2001) 3 SCC 290**.

6. Lastly it is submitted that the rejection is not by a competent authority and that the petitioner is being made the victim of extraneous circumstances since earlier he raised issues of corruption in the department.

7. The learned AGP appearing on behalf of the State, however, has opposed the submissions. It is submitted that the order of rejection is founded on the rule governing voluntary retirement in the State services. Reference to the DCRB, and other submissions are not relevant. Primarily what is to be seen is whether the petitioner was entitled to avail of voluntary retirement under the WBSR. Under the provision 75(aaaa) of WBSR, there is no scope for a voluntary retirement being allowed in the case of a person serving the West Bengal Medical Education Services. The petitioner's application, therefore, was rightly rejected.

8. We have considered the rival submissions and found that the rejection of the petitioner's claim is by referring to Rule 75 (aaaa) of the WBSR.

9. The provision inserted by way of amendment dated 07.02.2014 in the WBSR reads:

"3[(aaaa) Notwithstanding anything contained in this rule, the provisions contained in sub-rule (aa) and (aaa) of rule 75, shall not be admissible to holder of the West Bengal Health Services, the West Bengal Medical Education Services, the West Bengal Public Health-cum-Administrative Services, the West Bengal Dental Services and the West Bengal Dental Education Services.]

3A["Provided that in case any such person deserves sympathetic consideration on genuine ground for premature retirement in terms of provisions of sub-rule (aaa), the Government reserves the right to relax the provisions of this sub-rule on its merits."]

10. From a plain reading of the provision it is more than obvious that the facility of voluntary retirement is not available to the members of West Bengal Medical Services.

11. Whether the provision contained in Rule 59 of the DCRB can be considered *dehors* such a provision contained in the WBSR is an issue arising on the basis of submissions advanced by the learned advocate for the writ petitioner/applicant. Rule 59 of the DCRB reads:

"59. Retiring pension in the case of members of certain services:-

Members of the following services or holders of following posts are entitled, on their

resignation being accepted, retiring pension after completing qualifying service of not less than 25 years, namely :

- 1) *West Bengal Higher Agricultural Service;*
- 2) *West Bengal Agricultural Service;*
- 3) *West Bengal Higher Veterinary Service;*
- 4) *West Bengal Veterinary Service;*
- 5) *West Bengal Senior Educational Service;*
- 6) *West Bengal Educational Service;*
- 7) *West Bengal Civil Service (Executive);*
- 8) *West Bengal Civil Service (Judicial);*
- 9) *West Bengal Health Service;*
- 10) *West Bengal Police Service;*
- 11) *West Bengal Senior Engineering Service;*
- 12) *West Bengal Engineering Service;*
- 13) *Officers of and above the rank of Superintendent of Jails*
- 14) *Director of Statistics;*
- 15) *Superintendent of Government Press;*
- 16) *Agricultural Engineers in Pension able Service;*
- 17) *Inspectors of Smoke Nuisances Directorate;*
- 18) *Officers of and above the rank of District Registrars;*
- 19) *Inspectors of Boilers.*

A retiring pension is also granted to an officer who is required by Government to retire after completing 25 years' qualifying service or more."

12. A plain reading of the provision makes it clear that the rule enumerates the services, under which persons who are serving would be entitled to retiring pension after completing the qualifying service of not less than 25 years. The entitlement is, however, subject to a condition "*on their resignation being accepted*". A plain reading of the provision leaves no ambiguity that this is not a substantive provision for a voluntary retirement facility, rather it provides a circumstance under which a retiring pension may be granted.

13. Rule 75 (aaa) of the WBSR is the provision governing voluntary retirement under the State Government. The same contemplates the terms and conditions based on which voluntary retirement can be claimed. Rule (aaaa) was inserted by a notification dated 07.02.2014, after Rule 75 (aaa). The same is extracted above.

14. The claim for grant of voluntary retirement, therefore, is also required to be considered with reference to Rule 75 (aaaa), if the same is applicable to an applicant. There is no dispute of a fact that the petitioner is a member of West Bengal Medical Education Service. Since the provision 75(aaaa), governing the application on the ground of voluntary retirement under the WBSR itself bars an

application to be made by the members of the West Bengal Medical Education Services, we find no infirmity in the rejection of the petitioner's claim by an order dated 16.12.2020, issued by the Director of Medical Education, impugned in the present proceeding.

15. Insofar as the submissions relying upon decision of the Hon'ble Supreme Court of India in the case of **S.K. Singhal** (*supra*) and **Tek Chand** (*supra*), we find reliance placed thereon to be misplaced. The same could apply only if there is a facility of voluntary retirement available to the writ petitioner. In the present case since the petitioner, a member of West Bengal Medical Education Services is not entitled to avail of voluntary retirement under the WBSR, the question of automatic acceptance after lapse of any period, does not arise. Basic foundational facts required for applying these two judgments of the Hon'ble Apex Court relied upon, are absent in the present case. The two decisions relied upon by the learned advocate for the writ petitioner, therefore, does not come to the aid of the writ petitioner.

16. In view of the above consideration, there is no scope for any relief being granted to the petitioner. The plea of rejection by an incompetent authority or of the petitioner's alleged victimization for raising issues of corruption, does not in any way help the petitioner's case.

17. We find no infirmity in rejection of the petitioner's claim by the Tribunal by the order dated 22.04.2024 passed in O.A. No. 322 of 2021.

18. The writ petition is dismissed.

19. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.