



2025:AHC:186914-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 420 of 2025

Executive Engineer Edd-Vi, Dakshinanchal Vidyut
Vitran Nigam Limited

.....Appellant(s)

Versus

Manohar Singh And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Manu Ghildyal
Counsel for Respondent(s)	:	Abhishek Singh

Court No. - 21

HON'BLE MANOJ KUMAR GUPTA, J.
HON'BLE SIDDHARTH NANDAN, J.

1. Heard Shri M.C. Chaturvedi, learned Senior Advocate assisted by Shri Manu Ghildyal for the appellant and Shri Gajendra Pratap Singh, learned Senior Counsel assisted by Shri Abhishek Singh for the respondent.

2. The present intra-court appeal is directed against the order dated 03.04.2025 passed by learned Single Judge in Writ-A No. 19330 of 2024, whereby the writ petition filed by the respondent herein has been allowed and the appellant has been directed to process the application of the respondent (hereinafter referred to as 'the petitioner') for VRS without being influenced by any charges of misconduct against him. The operative part of the order of learned Single Judge is as follows:

"This Court also holds that the claim for VRS has to be processed without being influenced by any of the charges of misconduct against the petitioner. There is no possibility of the aforesaid charges being established in the departmental enquiry as per applicable standards of the evidence. The claim of the petitioner is accordingly allowed.

The respondents-authorities shall disburse the amount within a period of one month from the date of receipt of a certified copy of this order.

The writ petition is allowed to the extent indicated above."

3. In the writ petition, the petitioner had claimed the following reliefs:

"(i) issue a writ, order or direction in the nature of Mandamus directing the Respondent Authorities to give compulsory retirement (VRS) to the petitioner from his service on the medical ground;

(ii) issue a writ, order or direction in the nature of Mandamus directing the Respondent Authority to pay all service dues as well as wrongly and forcibly deposited amount Rs.51,04000/- (fifty one lacs four thousand) alongwith interest to the petitioner;

(iii) issue a writ, order or direction in the nature of Mandamus directing the Respondent Authority to appoint the son of petitioner on the basis of financial crisis of the family of petitioner."

4. The petitioner at present holds the post of Technician, Grade - II in Dakshinanchal Vidyut Vitaran Nigam Limited, Aligarh. He was awarded punishment of dismissal from service and recovery of a sum of Rs. 50,44,673/- by order of Managing Director dated 27.4.2022. The appeal filed by the petitioner was dismissed on 16.5.2023. The aforesaid orders were challenged by the petitioner in Writ Petition No. 13570 of 2023. The writ petition was allowed by judgment dated 19.3.2024 and the orders under challenge therein were quashed. It appears that in the writ petition, evidence was filed to indicate that the petitioner was not in proper mental condition. Consequently, the Writ Court permitted the Department to resume the disciplinary proceedings only if the petitioner was found to be in sound mental condition so as to face the enquiry. The Writ Court further provided that for ascertaining the mental condition of the petitioner, the Department would get a Medical Board constituted by the Chief Medical Officer of the district. The operative part of the order passed in the said writ petition is as follows:

"25. In the result, this petition succeeds and is allowed. The impugned order dated 16.05.2023 passed by the Chairman of the Corporation and the order dated 27.04.2022 passed by the Managing Director of the Distribution Corporation are hereby quashed. The respondents would, of course, be at liberty to proceed against the petitioner afresh from the stage of issue of the charge sheet against him, strictly in the manner indicated in this judgment and the law. But, before going ahead with the proceedings of inquiry against the petitioner, the respondents will immediately get a Medical Board constituted by the Chief Medical Officer of the district, wherever the petitioner is currently staying. The members of the Medical Board shall proceed to the petitioner's residence and ascertain his medical condition, particularly, if he is paralysed, non-ambulatory and unable to communicate. If that be his medical condition, fresh proceedings of inquiry will not be taken against him, until the petitioner is in a medically certified fit condition to understand the consequences of the charges against him and face the inquiry. If, however, the petitioner is found medically fit, the Medical Board will examine all his certificates and medical history, and inquiry proceedings, if elected to be pursued, would be resumed as above directed, taking into account the opinion. about his medical condition during the relevant period of time. In the event the respondents do not elect to resume fresh

proceedings against the petitioner, or his subsisting medical condition does not permit the resumption of such proceedings in either case the consequences of quashing of the orders impugned shall follow. It is clarified that if the petitioner be irredeemably indisposed, he would be dealt with according to the relevant service rules as to medical leave, medically incurred disability by employees, as the case may be."

5. In pursuance of the said order, the Department got a Medical Board constituted and the report of the Medical Board is as follows:

"Conclusion-

On the basis of history provided by the family members, reports of neurological Investigations provided and mental Status examination conducted by the undersigned, the index case was found to be suffering from Organic Brain dysfunction secondary to Brain Stroke resulting in Aphasia, Motor Incoordination and impaired higher mental functions but no active psychiatric Symptoms.

Considering the above mentioned finding on neurological Investigation provided and MSE done, the petitioner may not be able to comprehend and communicate properly even with the assistance of a Communicator.

However, opinion of a neurologist may be suitably taken as the current Impairment in the petitioner is secondary to chronic neurological insults.

The above findings are for your kind consideration and necessary action."

6. It appears that, thereafter wife of the petitioner filed an application on 27.07.2024 for voluntary retirement of the petitioner in view of his mental condition. The Department, however, did not process the application and consequently, the petitioner once again approach this court by filing Writ-A No. 19330 of 2024, giving rise to the present appeal.

7. It appears from the previous order of Coordinate Bench dated 12.05.2025 that the appellant-Department doubted the correctness of the report of the Medical Board and therefore, taking notice of the said plea, the Department was permitted to get the petitioner re-examined at AIIMS, New Delhi. The previous order of the Coordinate Bench dated 12.05.2025 passed in the present appeal is as follows:

"Though we do not find any error in the view taken by learned Single Judge in directing the appellant to accept application of the employee for voluntary retirement in view of his physical and mental ailments, but apprehensions are also expressed with regard to correctness of such report.

We deem it appropriate to provide as under:-

"The appellant will depute a responsible official, who would take the writ petitioner in an Ambulance to AIIMS at New Delhi, where the physical and mental condition of the appellant would be got examined. The expert opinion of AIIMS will then be placed before this Court, by the next date fixed. For such purposes we also request the Director, AIIMS to facilitate respondent's physical and mental examination."

The report in this regard shall be placed before the Court on 27.5.2025.

List as fresh, once again, on 27.5.2025."

8. In pursuance of the said order, the respondent was examined by a team of doctors at AIIMS, New Delhi and the report of the medical board constituted in pursuance of the order of this court has been communicated to this court by the Administrative Officer, AIIMS (Cardio-Neuro Centre), New Delhi. The said report is as follows:

"Report of Medical Board"

A meeting of the medical board constituted for the medical examination of Mr. Manohar Singh has been convened at 11 AM on 05.07.2025. All the members of the board were present for the meeting. On neurological examination, he was found to have significant ataxia (incoordination), aphasia, weakness and spasticity of limbs. On higher mental function examination, it was found that he can understand and follow simple commands with difficulty. However, he has profound difficulty in language, expression, memory and other cognitive functions. He is dependent on other for activities of daily living. Imaging (CT scan and MRI brain) is consistent with multiple strokes.

Conclusion: *Based on history (from son), neurological examination and available investigations the medical board is of the opinion that the patient Mr. Manohar Singh has significant physical and cognitive disabilities due to multiple strokes."*

9. Thus, from the above facts, it is now established beyond doubt that the medical condition of the respondent is not such that any enquiry is possible against him.

10. The order passed on 19.03.2024 in the previous writ petition of the respondent, permitting the department to hold departmental enquiry afresh, only if the mental condition of the respondent would so allow, has attained finality because of non-challenge.

11. In view of the above, we find no illegality in the order of the learned Single Judge directing the department to process the application of the respondent-petitioner for VRS without being influenced by the charges levelled against him in the past and in relation to which now no disciplinary inquiry is possible.

12. Having regard to the peculiar facts of the instant case, it is hereby provided that the department shall process the application within four weeks and also comply with the other directions issued by the learned Single Judge.

13. Accordingly, the appeal stands dismissed subject to above directions.

(Siddharth Nandan,J.) (Manoj Kumar Gupta,J.)

October 17, 2025

Sumit K.