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ONCE ACCEPTED VOLUNTARY RETIREMENT CANNOT BE CANCELLED

The Delhi High Court (“HC”) in *Baikuntha Nath Das case*¹ held voluntary retirement could not be cancelled.

Brief Facts.

Baikuntha Nath Das (“Das”) was an officer of the Central Reserve Protection Force (“CRPF”) in Delhi.

He had undergone kidney transplant surgery. He was transferred to Group Centre, CRPF, Nagpur (“GC”). His request for an extension of his posting at Delhi due to medical grounds was rejected. He filed writ petition before the HC, which was dismissed.

Unable to join duty, he submitted an application/notice² seeking voluntary retirement with effect from 30.06.2021. This application was accepted by the Union of India and others (“UOI”).

Das requested a change of retirement date³, because he could not complete all formalities to receive his pension.

This request was rejected⁴ and he filed another writ petition before the HC.

UOI’s Contentions.

Das's request for voluntary retirement was accepted.⁵

UOI was not given sufficient time to process Das’s application seeking extension of retirement date.

Das and his wife created disturbance at the Directorate General Office.

¹ *Baikuntha Nath Das v. Union of India and Others*, 2024 SCC OnLine Del 8342.

² Dated 05.03.2021.

³ From 30.06.2021 to 31.07.2021.

⁴ By the Impugned Order dated 30.06.2021.

⁵ On 10.06.2021.

On receiving his medical fitness certificate and at this request to resume his duties, Das was directed to report to GC but he failed to do so. He absented from duty. He was dismissed from service after a departmental inquiry (“**Department Inquiry**”).⁶

HC's Judgement and Reasoning.

The writ petition was allowed.

The HC:

- Noted that Das sought voluntary retirement due to his medical condition, which was accepted effective from 30.06.2021.
- Found that only a one-month’s extension of voluntary retirement was sought, possibly to earn an increment due the next day *i.e.*, 01.07.2021.
- Opined that “...[O]nly for this reason, the voluntary retirement of [Das] which already stood accepted by the [UOI] could not have been cancelled.”⁷
- Determined that, at best, his request for postponement of retirement could have been rejected by UOI and he should have been directed to proceed on voluntary retirement with effect from 30.06.2021.
- Directed the UOI to consider Das to have voluntarily retired with effect from 30.06.2021.
- Quashed the Departmental Inquiry.
- Ordered release of all consequential benefits.

Comment.

It is important for employers to receive in writing voluntary resignation by an employee and promptly also accept it in writing. This could also be by email or system generated written communication. Once an offer of resignation, made by the employee, is accepted by the employer, a contract is formed. This cannot thereafter sought be cancelled by the employee.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

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⁶ The Court directed the respondents to reconsider the petitioner's case on 24.07.2024.

⁷ Para 15 of the Judgment.