

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

+ **W.P.(C) No.7386/2005**

% **19th July, 2013**

UMESH CHANDRA

..... Petitioner

Through: Mr. V.S. R. Krishna, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms. Meenakshi Sood, Advocate for
respondent Nos.2 and 3.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. On 6.2.2013, the following order was passed:-

“1. One of the principal issues to be decided in this writ petition would be estoppel against the petitioner, provided the petitioner has taken VRS benefits without reserving his right to challenge the charge sheet dated 20.2.2003 or the subsequent orders thereupon of the Disciplinary Authority.

2. For the aforesaid purpose it is necessary that the application which the petitioner made for VRS should be on court record. Neither of the parties has filed the same.

3. Also, it will be necessary to refer to the letter communicating VRS to the petitioner for seeing as to same gives benefits of which post to the petitioner, and once again this letter is also not on the court

record. If the petitioner has accepted the benefits of VRS on a lesser post without reserving his right to challenge the chargesheet and the consequential proceedings against him, then possibly issue of estoppel may arise.

4. Counsel for the parties to file all relevant documents in order to examine the issue of estoppel within a period of six weeks from today.

5. List on 19th July, 2013.”

2. Respondent No.3 has complied with the order and has filed the documents in question. In the morning, counsel for the petitioner sought an adjournment. This request was denied in view of the fact that the matter was heard on 6.2.2013 and on the limited issue as to whether VRS benefits were taken unconditionally or conditionally, the matter was listed today. On being unsuccessful in taking the adjournment, counsel requested for a pass over and said that he would argue the matter. After pass over the matter has come at 2.45 P.M., however, counsel for the petitioner again seeks an adjournment. In my opinion, strategies which are devised to unnecessarily delay the cases cannot be countenanced by the Court. I have therefore declined the request for adjournment and proceeded to hear the counsel for the respondent Nos. 2 and 3. I have also perused the record.

3. The issue in this case is whether after obtaining voluntary retirement under a VRS scheme and accepting the dues unconditionally, can

such an employee again challenge the departmental action and claim a higher pay scale although at the time of taking voluntary retirement benefits the documents in question specifically state that benefits are taken by an employee as in a specific post i.e there is no challenge that the employee is not taking voluntary retirement at that particular post.

4. The Supreme Court in the case of ***A.K.Bindal VS. Union of India (2003) 5 SCC 163*** has set out the parameters with respect to petitions wherein employees who have taken VRS again approach the Court to seek certain service benefits. Relevant para of this judgment in this regard is para 34 and the same reads as under:-

“34. This shows that a considerable amount is to be paid to an employee ex-gratia besides the terminal benefits in case he opts for voluntary retirement under the Scheme and his option is accepted. The amount is paid not for doing any work or rendering any service. It is paid in lieu of the employee himself leaving the services of the company or the industrial establishment and foregoing all his claims or rights in the same. It is a package deal of give and take. That is why in business world it is known as 'Golden Handshake'. The main purpose of paying this amount is to bring about a complete cessation of the jural relationship between the employer and the employee. After the amount is paid and the employee ceases to be under the employment of the company or the undertaking, he leaves with all his rights and there is no question of his again agitating for any kind of his past rights, with his erstwhile employer including making any claim with regard to enhancement of pay scale for an earlier period. If the employee is still permitted to raise a grievance regarding enhancement of pay scale from a

retrospective date, even after he has opted for Voluntary Retirement Scheme and has accepted the amount paid to him, the whole purpose of introducing the Scheme would be totally frustrated.”

(underlining added)

5. Reference to the aforesaid para shows that after taking VRS benefits voluntarily and unconditionally, jural relationship of employee and employer terminates and the employee thereafter cannot claim that in addition to VRS benefits he should receive other benefits although the VRS benefits are unconditionally accepted as the benefits which would be payable at the time of seeking and getting voluntary retirement.

6. In the present case, the additional documents filed by the respondent No.3 after the last date of hearing show beyond doubt that the petitioner unconditionally applied for and took voluntary retirement under the VRS scheme at a specific post. Not only the benefits were taken but also it was specifically noted by the employee that no other claim will survive against respondent No.3. The relevant portion of the application of voluntary retirement and on the basis of which necessary monetary benefits have been paid to the petitioner, reads as under:-

“I, Umesh Chandra, Sr. P.A.-cum-Time Keeper, Staff No.87915 have received the cheque No._____ dated 15.09.2003 for a sum of ₹3,59,672.46 (Rupees three lakh fifty nine thousand six hundred

seventy two) from Centaur Hotel (A Unit of Hotel Corporation of India Limited), IGI Airport, New Delhi-110037 towards the full & final settlement of my accounts/duties which includes ex-gratia on account of VRS, gratuity, encashment of entitled leave and all other dues which could occur during the employment with the Management of Centaur Hotel, Delhi. I hereby declare that I do not have any claim whatsoever against the Management.” (underlining added)

7. In view of the ratio of the judgment of the Supreme Court in the case of *A.K. Bindal (supra)* and the fact that the petitioner voluntarily i.e without coercion applied for and took VRS benefits as Senior Personal Assistant-cum-Time Keeper, he has now no cause of action to claim that he should be given other benefits of a higher post in a higher pay scale. The extracted portion of the application shows that petitioner on receipt of the VRS benefits stated that he does not any longer have any claim whatsoever against the respondent No.3.

8. In view of the above, the writ petition is therefore dismissed, leaving the parties to bear their own costs.

VALMIKI J. MEHTA, J

JULY 19, 2013

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