

**THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

WRIT APPEAL Nos.412 and 413 of 2006

ORAL JUDGMENT: (per Hon'ble Sri Justice A.Ramalingeswara Rao)

These two appeals are being disposed of by this common order as they involve the same point.

These appeals arise out of orders of the learned single judge passed in W.P.Nos.2802 of 2006 and 2800 of 2006 dated 18.03.2006 respectively.

The writ petitions were filed seeking a direction to the respondents to pay all service benefits such as encashment of leave salary, DA from 01.01.2005, stagnated increments, 15 days salary for every completed year of service and all the benefits in the revised pay scales of 2005 including regular pension in addition to the special package declared by the respondents by following the guidelines framed in G.O.Ms.No.16 Public Enterprises (P.E.III) Department dated 22.03.2001 (for short 'G.O.Ms.No.16') and by extending the benefit of G.O.Ms.No.11 Public Enterprises (P.E.I) Department, dated 31.03.2004.

It is the case of the appellants-petitioners that they have been working in different capacities from 1980 onwards in the work charged establishment under the control of respondents. All of them rendered more than 20 to 25 years of service. The respondent-Board also issued orders on the options of the petitioners immediately after completion of ten years of work charged service by treating them on par with government employees in terms of G.O.Ms.No.130 I&P Ser (N)

dated 18.03.1981 during their tenure. Thus, they were made eligible and entitled for all the benefits and also pension to the persons who retired on attaining the age of superannuation on par with government employees. Then, they came to know that they would be retired under

‘voluntary retirement scheme’ and after knowing about the same they submitted a representation through their Union by way of detailed representation dated 21.04.2004 requesting the respondents 1 and 2 to extend the benefits including pension in terms of guidelines framed under VRS Scheme by the Government in G.O.Ms.No.16. Thereafter, the

2nd respondent-Board took a unilateral decision and retrenched all the appellants-petitioners w.e.f.11.04.2005 by declaring to pay one month pay in lieu of retrenchment notice and 15 days salary for every completed year of service in compliance of Section 25-F of Industrial Disputes Act, 1947 (for short ‘the Act’) and a special package containing the items : a) VRS package @ 1 ½ month salary for every completed year of service; b) Gratuity under the Gratuity Act; c) EPF contribution of the employer for the entire period for people not covered by GPF, ignoring their claims narrated in the representation dated 21.04.2004. Appellants-petitioners protested the stand taken by the respondents in extending the benefits under a limited package. Appellants-petitioners received the said package after deduction of the amount towards 15 days salary for every completed year of service, which was declared to be paid along with one month notice amount in compliance of Section 25-F of the Act. It is their further case that the Government evolved a scheme of voluntary retirement by framing guidelines in G.O.Ms.No.16 in order to give quietus to further litigation.

The Government also issued G.O.Ms.No.14 PE (II) Dept.

dated 01.05.2002 for strict implementation of the voluntary retirement scheme and also extended application of scheme in respect of several other public and private sectors under control of the Government. But, the second respondent-Board took a unilateral decision by giving a go-bye to the said scheme framed by the Government. Appellants-petitioners further state that Government vide letter No.2763/HB1/2003 dated 11.09.2001 clarified that the A.P. Housing Board shall be treated as one of the State Level Public Enterprises for all purposes and the

voluntary retirement scheme framed under G.O.Ms.No.16 is applicable to the employees of the A.P. Housing Board. When the Government requested the Board to send consolidated proposals regarding the Scheme, the Board responded to the same, but no action was taken thereon. Petitioners submitted a representation on 10.01.2006 to the second respondent and same was pending consideration by the time of filing of writ petition. In those circumstances, the petitioners filed the above writ petitions.

No counter affidavit was filed on behalf of respondents.

Before the learned Single Judge, respondents' counsel produced copies of the settlements entered into by the respondent-Housing Board with the petitioners. A perusal of the said settlement shows that the Housing Board entered into settlement, in order to put quietus to the litigation, with the workman. As per the said settlement, the Housing Board agreed to pay lumpsum compensation to the petitioners in full and final settlement of their claims and accordingly paid the said amount.

The learned single Judge took into consideration the above aspects of the matter and did not agree with the defence put forth by the petitioners that they have entered into agreement under duress and they are entitled for the benefits which they are claiming, inasmuch they were to be treated as government servants, in view of the orders issued by the Government from time to time. The learned single Judge also noticed that as on the date of retrenchment there was no order treating the petitioners as government servants and hence they were retrenched by following the procedure contemplated under Section 25-F of the Act. In view of the settlement arrived at by the petitioners with the Housing Board, it was not open to the petitioners to file writ petition seeking the relief as sought for in the writ petition. The learned single Judge, accordingly, dismissed the writ petitions at the stage of admission.

The learned counsel for the appellants did not produce any

order or circular treating them as government servants. It is also not denied that the appellants have entered into a settlement with the respondent-Housing Board. In view of the facts which were taken note by the learned single Judge, we are not inclined to interfere with the order passed by the learned single Judge.

The writ appeals are, accordingly, dismissed. There shall be no order as to costs.

Miscellaneous petitions pending in the appeals, if any, also stand disposed of.

Dilip B.Bhosale, J

A.Ramalingeswara Rao, J

2nd March, 2015.
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