

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 1325 of 2013 (O&M)

Date of Decision: 19.01.2015

Surjit Singh

..Appellant

Versus

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH.**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present : Mr. D.S.Bali, Sr. Advocate with
Mr. Salil Bali, Advocate, for the appellant.

Mr. J.S.Puri, Addl. Advocate General, Punjab,
for respondent No.1.

Mr. Gurdip Chanderdeep Singh, Advocate,
for respondent No.2.

Ms. Nimrata Shergill, Advocate,
for respondents No. 3 and 4.

S.J.VAZIFDAR A.C.J. (Oral)

This is an appeal against the order and judgment of the learned Single Judge dated 10.05.2013 dismissing the appellant's petition. The appellant had filed the writ petition challenging the respondents' refusal to accept his application under the Voluntary Retirement Scheme (VRS).

2. The appellant was employed by respondent No.3 in the year 1985. It is not disputed that his appointment was confirmed. Respondent No.3 started making losses in and around the year 1990. On 01.07.1994, respondent No.3 claims to have abolished the post. On 01.07.1994, respondent No.3 introduced the said V.R.S. The scheme expressly states that it would be open for one full calendar month upto 31.07.1994.

3. The appellant admittedly made an application under the scheme of 'VRS' on 28.07.1994. Unfortunately, the learned Judge's attention was not drawn to this fact. The learned Judge, therefore, posed a wrong question namely whether respondent No.3 was to accept the appellant's option for the scheme on 03.08.1994 when the last date so prescribed for the option was 01.07.1994 and 02.07.1994. 01.07.1994 is the date of the scheme itself and not the date on which the option was to be exercised. As we stated earlier, the option was to be exercised by 31.07.1994 which the appellant did. The impugned order and judgment to that extent must be set-aside.

4. The real issue between the parties is whether the appellant after having opted for the scheme withdrew the exercise of option. The letter of respondent No.3 dated 10.08.1994 impugned in the writ petition itself alleges that the appellant had by a letter dated 03.08.1994 stated that if respondent No.3 did not agree to pay his full salary during the period for which he was earlier suspended, his offer for voluntary retirement should be treated as withdrawn. By the said letter, respondent No.3 accepted the withdrawal of the appellant's application. The question, therefore, is whether the appellant had in fact withdrawn the application for voluntary retirement.

5. We do not find it necessary at this stage to consider the disputes between the parties. In our view the appropriate procedure in the facts of this case would be to permit the appellant to lodge his claim before the Official Liquidator of respondent No.3. The Official Liquidator shall consider the same in accordance with law.

6. Learned counsel appearing on behalf of the Official Liquidator states that the winding up proceedings are almost complete and that there is only a meager amount lying to the credit of respondent No.3.

7. The appellant shall be at liberty to take inspection of the papers of the winding up proceedings. The Official Liquidator shall decide the appellant's claim, as expeditiously as possible preferably within four months from the date of the receipt of the application. If the appellant's claim is not decided on-merits, for any reason, including on the ground of limitation, this appeal shall stand revived without reference to the Court.

The appeal is accordingly disposed of in the above terms.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

19.01.2015
'ravinder'