

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

+ **W.P.(C) No.3125/2002**

% **5th May, 2015**

SHRI C.LAL & ORS.Petitioner

Through: None.

versus

UNION OF INDIA AND ANR.Respondents

Through: Ms. Tamali Wad, Advocate with
Mr. Vaibhav Sharma, Advocate
for respondent no.2

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. There are 12 (twelve) petitioners in this writ petition filed under Article 226 of the Constitution of India. These petitioners seek the relief of higher pay scales w.e.f 01.01.1992 along with interest. The writ petition is filed in May, 2002.

2. A reading of the counter affidavits shows that the petitioner nos.1, 2, 9, 10, 11 and 12 have already been paid the benefits which are claimed in the

writ petition. The writ petition will be, therefore, infructuous so far as these petitioners are concerned.

3. That leaves us with the petitioners being petitioner nos.3 to 8.

4. As per the writ petition, petitioner nos.3, 4 and 5 took VRS from the employer/respondent no.2 i.e Hindustan Vegetable Oils Corporation Ltd in the years 1992 and 1993.

5. Such persons who have taken VRS are not entitled to claim monetary benefits, as is held by the Supreme Court in its judgment in the case of *A.K. Bindal and Another Vs. Union of India and Others*, (2003) 5 SCC 163. The relevant paragraph of the judgment 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.” (emphasis added)

6. Therefore, petitioner nos.3, 4 and 5 cannot seek the relief claimed and the writ petition is dismissed as far as these petitioners are concerned.

7. Petitioner nos.6 to 8 resigned from the services of the employer/respondent no.2 in the years 1993 to 1995. In law resignation wipes off the entire service record of a resigned employee and such a resigned employee, therefore, cannot claim service benefits. No rule has been cited in the writ petition as to that a resigned employee, in spite of resignation, is entitled to higher monetary emoluments/higher pay scale during the period of past service.

8. In fact, the writ petition having been filed in the year 2002, and these petitioner nos.6 to 8 having resigned from the services of the employer/respondent no.2 in the years 1993 to 1995, the writ petition filed in May, 2002 would also be barred by the doctrine of delay and *laches*, and therefore, this Court refuses to exercise its jurisdiction in favour of these petitioners under Article 226 of the Constitution of India.

9. In view of the above, as far as petitioner nos.1, 2, 9 to 12 are concerned, the writ petition is infructuous because they have got the relief claimed by them in this writ petition and as far as petitioner nos.3 to 8 are concerned, they cannot get reliefs as stated above either on account of their having taken VRS or having resigned from the services of the respondent no.2/employer.

10. The writ petition is accordingly dismissed.

11. No costs.

MAY 05, 2015
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VALMIKI J. MEHTA, J.