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

\+ **W.P.(C) No. 529/2002**

% **8th April, 2015**

MEHAR SINGH ..... Petitioner

Through: Mr. Shravan Shawny, Advocate with Mr. Darpan, Advocate.

Versus

NATIONAL SEED CORPORATION LIMITED ..... Respondent

Through: Mr. C.N. Sreekumar, Advocate with Mr. Amit Sharma, Advocate.

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

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Article 226 of the Constitution of India, petitioner who was working as a driver with the respondent/State Farms Corporation of India Ltd. (now National Seed Corporation Limited) seeks basically two reliefs. First is that the respondent should be commanded to take the petitioner as if he has been in employment without any break in service and give consequential monetary benefits and the second relief claimed is that petitioner should be granted voluntary

retirement under the Voluntary Retirement Scheme of the respondent inasmuch as petitioner had applied for the same by his application dated 22.3.2001.

2. The facts of the case are that the petitioner was an employee of the respondent, and, after serving various postings in Delhi and Tamil Nadu, he was transferred to Punjab in July, 1997 as a staff car driver. Petitioner was posted and was working in the State Farms at Ladhowal, Punjab and which farm was taken on lease by the respondent from Punjab Land Development and Reclamation Corporation (PLDRC) for 20 years in the year 1971. In the year 1991, the lease of the Ladhowal farm was to expire and consequently a decision was taken between the respondent corporation and PLDRC to transfer of all land and assets and the staff workers of the respondent at Ladhowal to PLDRC. The agreement entered into between the respondent and PLDRC is dated 23.2.2000 and as per which all employees of the respondent at Ladhowal were to be absorbed with PLDRC alongwith protection of their service benefits. These minutes of the meeting dated 23.2.2000 reflecting the agreement read as under:-

> "MINUTES OF MEETING HELD ON 23.2.2000 IN THE MINISTRY OF AGRICULTURE IN REGARD TO TRANSFER OF CENTRAL STATE FARM, LADHOWAL.
>
> ....
>
> The following were present in the Meeting:-

Ministry of Agriculture

1. Shri Govindan Nair, IAS, Joint Secretary (in chair),
2. Ms. Dolly Chakrabarty, Deputy Secretary (Seeds),
3. Ms. B. Nalini, Under Secretary (Seeds).

State Farms Corporation of India Limited.

1. Dr. E. Emayavaramban, Chief Administrative Officer.
2. Shri P.S. Gupta, Financial Advisor,
3. Shri Nasib Chand, Deputy Chief Administrative Officer.

Punjab Government:

1. Shri Ashok Kumar, IAS, Additional Secretary (Agri.). Punjab Government, Chandigarh.
2. Dr. Avtar Singh Bhaur, Managing Director, PLD&RC.

Welcoming the participants, the Chief Administrative Officer (CAO), SFCI, pointed out that since the Government of India has decided in principle to transfer the Central State Farm, Ladhowal to Punjab Land Development and Reclamation Corporation, this meeting was called to work out modalities regarding transfer of land, staff/workers as well as assets etc. The Agenda points were then taken up for discussion as under:

1. Transfer of Land:

After deliberations, it was decided that the vacant land orchards, socio forestry, trees, nursery etc. be handed over to PLD&RC in the first phase; i.e. latest by 31st March, 2000. The area under crops shall be handed over after the harvesting of the standing rabi crops by 30th June, 2000. The rabi produce shall be property of SFCI and the same will be processed at the processing plant and kept in the godowns at CSF Ladhowal till complete sale.

2. Transfer of immoveable and moveable assets:

(a) Immoveable assets:

The immoveable assets including orchard, socio forestry & nurserids shall be handed over to the State Government on 'as is where is basis' on book value in a phased manner as under:-

i) Staff quarters will be handed over alongwith staff as and when such transfers takes place.

ii) Tubewell alongwith the land.

iii) A portion of the main office building will be handed over by 31st March, 2000.

iv) Workshop and the installed machineries therein will be handed over by 31st June, 2000.

v) Processing plant, storage godown and staff quarters for those who will be in the farm to complete the transfer will be handed over by 31st December, 2000.

b) <u>Moveable assets:</u>

It was pointed out by the Additional Secretary (Agri), Punjab Government that according to the lease deed, machinery and equipment is to be transferred to the PLD&RC on book vale. However, in case, SFCI wants to retain the machinery/vehicles etc., they will have to accept retention of staff/workmen required for operating such machinery/vehicles. The views expressed by the Additional Secretary (Agri), Punjab in this matter was accepted to SFCI.

3. <u>Transfer of employees/workers:</u>

It was pointed out that PLD&RC has already agreed to take over all the employees including those who are in continuous service of the Corporation on completion of 240 days with protection of service conditions including pay and allowances. However, transferred Government employees who are eligible for pensionary benefits shall be transferred on deputation basis. It was decided that all the employees/workers on the rolls of Central State Farm, Ladhowal shall be transferred to the PLD&RC on the above conditions.

It was however, pointed out by the Additional Secretary (Agri), Punjab Government, that pro-rata service benefits of the employees whose services are taken over by PLD&RC will be paid simultaneously with their transfer to Punjab Government (PLD&RC) alongwith other pending dues of the employees. Chief Administrative Officer, SFCI pointed out that since SFCI is not able to pay the proportionate liability, the Government of India may consider payment of the aforesaid amount to the Punjab Government.

Additional Secretary (Agri) Punjab Government brought out that since SFCI is in unauthorized possession of the land since 1991, SFCI should pay as compensation 1/3rd share of profits to PLD&RC. It was informed by the FO, SFCI that CSF Ladhowal has not earned profits as a whole since 1991 and as such, the question of its sharing does not arise. However, Shri Govindan Nair, Managing Director, SFCI and Joint Secretary (Seeds), Ministry of Agriculture agreed to examine the issue of payment of compensation.

Managing Director, PLD&RC requested that the vacant area, socio forestry, trees etc. should be handed over to them immediately so as to take up summer cropping in the said area. SFCI agreed to hand over the vacant area, socio forestry and trees etc. by 15th March, 2000. However, the process of handing over can be initiated immediately. It was further pointed out by the Managing Director, PLD&RC that an advertisement has appeared for selling of trees in the newspaper and urged that the farm authorities may be asked not to sell the trees. The socio forestry and trees be handed over to the PLD&RC immediately. It was agreed by the SFCI to issue instructions to the farm authorities not to sell trees and handing over process would be immediately initiated s discussed above. The Additional Secretary (Agri) Punjab requested to depute officers from SFCI Hqrs. to CSF Ladhowal to finalize the details of modalities of transfer in consultation with representatives of Punjab/PLD&RC. This was accepted by the Chair.

The Meeting ended with a vote of thanks to the Chair."

3. The case of the respondent is that the petitioner pursuant to the agreement to transfer of its entire assets and employees at Ladhowal to PLDRC, the respondent transferred all its employees to PLDRC and for this purpose an order was passed by it on 3.4.2000 relieving the employees of the respondent including the petitioner for their reporting to PLDRC. The relevant portion of this order reads as under:-

"STATE FARMS CORPORATION OF INDIA LIMITED
(A Government Of India Undertaking)
CENTRAL STATE FARM: LADHOWAL: : DISTT. LUDHIANA : (PUNJAB)

No.CSF/LDL/1-90/Admn/1 Dated:-3rd April, 2000

OFFICE ORDER

In pursuance to State Farms Corporation of India Ltd. Hqrs., New Delhi Office Order No.SFCI/13-3/77-CC dated 3.4.2000 the following employees/workers on the roll of Central State Farm, Ladhowal are hereby relieved of their duties with effect from the afternoon of 3rd April, 2000 with the instruction to report for their duties to Shri T.S. Sodhi, Distt. Manager, Incharge, Ladhowal Farm (Punjab Land Development & Reclamation Corporation.

SL. No.	Name	Designation
1.	Shri Jasbir Singh	P.A.
….	….	….
16.	Sh. Mehar Singh	Staff Car Driver
…	….	….

The names of the above employees/workers are struck off from the Roll of Central State Farm, Ladhowal from the aforesaid date.

Sd/-
(T.S. BRAR)
DIRECTOR

DISTRIBUTION

1. All concerned through Section Officers
2. All Section Officer, CSF, Ladhowal
3. Sh. T.S. Sodhi, Distt. Manager, Incharge, Ladhowal Farm PLD&RC)
4. The Managing Director, Punjab Land Development & Reclamation Corporation, SCO 827-30, Sector 22-A, Chandigarh.
5. The Chief Administrative Officer, S.F.C.I. Ltd., New Delhi-19 for favour of information and necessary action.
6. P/Files
7. O/O files
8. File No.CSF/LDL/1-21/Admn/Part B"

4. According to the respondent, the petitioner was also relieved from his duties with the respondent as per his name at serial no.16 in the office order dated 3.4.2000. And, the respondent has filed at pages 44 and

45 of its counter affidavit, the copy of that portion of Dak Register showing that petitioner (alongwith other persons) received the relieving order on 5.4.2000.

5. Petitioner however contends that he continued to work with the respondent and when the petitioner thereafter sought to join PLDRC in January, 2001 he was not allowed to join by PLDRC. For completion of factual narration it is also to be noted that the employees of the respondent who were transferred to PLDRC were thereafter absorbed by the Punjab Agricultural University (PAU) in view of the decision of the Chief Minister of Punjab dated 28.11.2000. Petitioner was therefore in fact to report for joining to PLDRC and/or to PAU. At this stage, it may be noted that the petitioner has not impleaded PLDRC or PAU as respondents in this petition.

6. The first issue to be addressed is whether petitioner continued as an employee of the respondent in spite of the order of the respondent dated 3.4.2000 and serving of the relieving order on the petitioner on 5.4.2000 as per the documents filed at pages 44 and 45 of the counter affidavit of the respondent. Whereas the petitioner contends that he continued to work with the respondent, the case of the respondent is that the petitioner never worked with the respondent after April, 2000 and that in fact petitioner remained illegally absent from duties by not joining PLDRC.

7. A reading of the record of the writ petition shows that the petitioner has filed not a single document to show that he reported for duty, marked his presence and continued to work and perform duties with the respondent after being served of the relieving order on 5.4.2000. Admittedly, petitioner has not been paid any salary by the respondent from April, 2000. It is therefore not possible to believe the stand of the petitioner that petitioner in fact continued to work with the respondent even after April, 2000 and till January, 2001. Reliance placed by the petitioner upon the document being the letter dated 12.7.2001 of the respondent to Financial Commissioner of Government of Punjab, Department of Agriculture is of no effect because nowhere in this letter, the name of the petitioner is found and also that it be noted that nowhere in this letter dated 12.7.2001 it is stated that petitioner continued to report for his duty and work with the respondent from April, 2000 till January, 2001, and when he endeavoured to join PLDRC.

8. Counsel for the petitioner placed a lot of emphasis on an office order of the respondent dated 1.9.2000, and which was an order of increase of pay of the petitioner, and this order dated 1.9.2000 at the first blush seems to show that the petitioner was an employee of the respondent even after April, 2000, however, on a deeper reading of this document it is seen that

this document is only fixing the pay of the petitioner with increments retrospectively from 29.9.1995 and this would have been done because the monetary liability including the payment of salary increments in accordance with rules etc etc of the employees of the respondent at Ladhowal who were taken over by PLDRC was to be the liability of the PLDRC and by this office order the monetary liability of PLDRC towards the petitioner is being stated by giving the pay of the petitioner, but admittedly only prior to April, 2000. Nowhere this office order dated 1.9.2000 passed by the respondent shows that the petitioner continued to be the employee of the respondent from April, 2000 onwards. Petitioner therefore cannot take benefit of this office order of the respondent dated 1.9.2000, and which order only fixed his pay scale with certain increments from the year 1995 so that the petitioner got the benefit of that monetary amount from PLDRC. At the cost of repetition, petitioner has not filed any document whatsoever whether the attendance register or any other document whatsoever that he did in fact work with the respondent from April, 2000 to January, 2001. In fact, petitioner has not even made an averment in any of his letters filed with the writ petition that he continued to work with the respondent from April, 2000, till January, 2001. Therefore, the fact of the matter is that the petitioner is a delinquent employee who in spite of being relieved by the respondent in terms of the order dated 3.4.2000 and which was served upon the petitioner on 5.4.2000, did not report for his duty to PLDRC and hence PLDRC and the subsequent entity PAU therefore refused to allow the petitioner to join duty with them subsequently. I may only state that merely because petitioner being the erstwhile employee of the respondent, the respondent hence wrote various letters dated 14.6.2001, 27.6.2001 etc to PLDRC to allow the petitioner to join PLDRC, and which was only a humanitarian act, cannot mean that these letters show that the petitioner continued to be the employee of the respondent, and much less that the petitioner in fact worked and performed his duties with the respondent after 5.4.2000. It is therefore held that the petitioner w.e.f 3.4.2000/5.4.2000 ceased to be the employee of the respondent and therefore there does not arise any issue of petitioner being granted employment with the respondent.

9. I may note that the petitioner claims that he had exercised an 'option' by means of the option form filed as Annexure P-2 dated 17.2.2000, to continue to stay with the respondent and not be transferred to PLDRC, however, the contention of the petitioner is misconceived for two main reasons. Firstly, nothing has been pointed out to me in the form of any policy or circular or direction of the respondent that there was an option in any of the employees of the respondent working at the Ladhowal farm not to

take employment with PLDRC but to continue with the respondent. Hence, there does not arise any issue of petitioner exercising any option much less vide Annexure P-2. The second reason is that Annexure P-2 filed with the writ petition is just a typed document of about 8/9 lines and it is nowhere shown as to how the petitioner did in fact submit this alleged option form to the respondent. Therefore, the claim to allegedly exercise the option to continue with the respondent has no basis, and much less because of the minutes of the meeting dated 23.2.2000 reproduced above which show that all the employees of the respondent at Ladhowal farm were transferred to PLDRC.

10. The second issue is as to whether the petitioner should be allowed VRS under the VRS scheme of the respondent. This claim of the relief of the petitioner is misconceived inter alia for two reasons. Firstly, admittedly the application seeking VRS by the petitioner to the respondent is dated 22.3.2001, and from 5.4.2000 the petitioner was not the employee of the respondent and therefore there does not arise any issue of petitioner seeking any VRS from the respondent who was not the employer of the petitioner after passing of the order dated 3.4.2000 and which was served on 5.4.2000. Second reason for the petitioner not getting the benefit of the VRS scheme is that under the VRS scheme filed as Annexure P-4 to the writ

petition, the last date for submitting the application was 18.3.2000 and admittedly petitioner submitted his claim for VRS only on 22.3.2001 and that too when the petitioner was no longer an employee of the respondent. Petitioner therefore in no case was entitled to grant of VRS from the respondent.

11. In view of the above, there is no merit in the petition and the same is therefore dismissed. No costs.

APRIL 08, 2015 **VALMIKI J. MEHTA, J.**
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