

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

+ **W.P.(C) No.6813/2002**

% **26th May, 2015**

ASHOK MEHROTRA Petitioner
Through: Mr. N.D. Pancholi, Advocate with
Mr. Amit Srivastav, Advocate.

versus

STATE BANK OF INDIA & ORS. Respondents
Through: Mr. Rajiv Kapur, 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 Articles 226 and 227 of the Constitution of India, the petitioner, an employee of the respondent no.1/State Bank of India, seeks the relief that petitioner's application for voluntary retirement which was given in the validity period of 15.1.2001 to 31.1.2001, be accepted by the respondent no.1/Bank and petitioner be given voluntary retirement alongwith all benefits flowing from the VRS Scheme.

2. There are two issues which require consideration in this case. The first issue is whether the respondent no.1/Bank is justified in rejecting

the application for voluntary retirement in view of para 3(ii) of the SBI VRS Scheme on the ground that the respondent no.1/Bank need not accept a VRS application of a person against whom disciplinary proceedings are contemplated/pending. This stand of the respondent no.1/Bank is based on the factual position that the departmental proceedings were pending against the petitioner during the validity period of the scheme and which departmental proceedings concluded only thereafter in terms of the order of the Disciplinary Authority dated 22.3.2001 imposing the punishment of censure upon the petitioner. The second issue which is required to be addressed by this Court is that even if respondent no.1/Bank was not justified in rejecting the request of the petitioner for voluntary retirement on the ground that disciplinary proceedings were pending during the validity of the period of VRS Scheme and only a punishment of censure was imposed upon the petitioner, yet the respondent no.1/Bank was justified in rejecting the VRS application on the ground that the petitioner after the rejection of his application for voluntary retirement in fact has received promotion to the post of Special Assistant in terms of the letter dated 12.5.2001 and that too retrospectively from 1.4.1999, and, further that after receiving such benefits that petitioner in fact resigned from the services of the respondent no.1/Bank in terms of his letter dated 21.4.2001 and which was accepted by the

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respondent no.1/Bank vide letter dated 19.5.2001 w.e.f 20.5.2001.

3. In my opinion, the discussion on the second issue will suffice for decision of the present case and for which I am presuming that the first issue is to be decided in favour of the petitioner. In my opinion, petitioner is clearly estopped from claiming VRS inasmuch as petitioner after the expiry of the period of the VRS Scheme received benefits of promotion in terms of the letter dated 12.5.2001 of the respondent no.1/Bank and that too retrospectively from 1.4.1999. This benefit, and consequential monetary emoluments petitioner would not have received in case petitioner's VRS application would have been accepted. In fact, not only the petitioner is estopped from claiming VRS on account of receiving subsequent promotion and consequential monetary emoluments, petitioner admits in para 8 of the writ petition itself that the petitioner resigned in terms of his letter dated 21.4.2001 and which was accepted by the respondent no.1/Bank vide its letter dated 19.5.2001. Curiously I may note that petitioner has not filed this letter of resignation dated 21.4.2001 and has also not filed the acceptance of resignation by the respondent no. 1/Bank dated 19.5.2001. I am of the opinion that these documents have been deliberately not filed because the act of resignation by the petitioner would be a voluntary act without any

coercion and it would not be the case of the petitioner in the resignation letter that he is giving his resignation letter under force and without prejudice to his rights to claim benefits under the VRS Scheme. Be it noted that effect of resignation is to wipe out the entire service record unless service benefits are specifically provided pursuant to resignation, but even if this aspect is ignored because I do not have to look into the same, the fact of the matter would be that the petitioner cannot blow hot and cold at the same time i.e seek benefits of VRS and benefits of promotion which petitioner would have not got on his being successful in seeking VRS. Petitioner is therefore clearly barred from filing this writ petition on account of the petitioner having voluntarily resigned from the services of the respondent no.1/Bank pursuant to his application for resignation dated 21.4.2001 and also because petitioner is estopped from filing this writ petition as petitioner has received benefits of promotion and monetary emoluments which he would not have got in case his VRS application was accepted.

4. Dismissed.

MAY 26, 2015

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VALMIKI J. MEHTA, J.