NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.1631 of 2009

- Lakhan Lal Pal S/o B. Pal, Aged about 49 years, R/o Sector 10, Street No. 30, Qr. No. 27 A, Bhilai Nagar, Distt. Durg (Cg)

---- Petitioner

Versus

1. Hindustan Steel Works Construction Limited, Bhilai, Through The Deputy Manager (Works) Establishment HSCL Bhilai (CG)
2. H.S.C.L. Chairman Cum Managing Director, Hastangs Head Office-Kolkata (W.B.)

---- Respondents

Petitioner in person.
Shri Vinod Deshmukh, counsel for Respondents.

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

C A V Order

Pronounced on : 10/11/2016

This petition has been filed by the petitioner assailing correctness and validity of order dated 20-02-2008 and 01-10-2007 (Annexure P/1) directing the petitioner to vacate the quarter alloted by the respondent-Company on the ground that the petitioner is a retired employee as having opted for retirement on voluntary basis. The petitioner has also prayed for a direction to the respondents to take him back in the services, ordering separate enquiry regarding false submission of application for voluntary retirement.

2. The factual backdrop giving rise to the instant petition are that the petitioner, who was working on Class-IV post with the respondent employer-HSCL, Bhilai, was subjected to transfer vide order dated 17-01-2007. Aggrieved by the transfer order, the petitioner preferred a petition before this Court which

was disposed off vide order dated 21-03-2007 passed in W.P.(S)No.1646/2007, in view of the submission made by the respondents that the representation of the petitioner for cancellation of transfer shall be considered. On the representation of the petitioner, the respondents decided to reject his prayer for cancellation of transfer. Thereafter, the petitioner, according to the respondents, submitted an application for voluntary retirement on 17-05-2007, which was accepted. The petitioner, however, started raising dispute by saying that he was defrauded and misled by the respondents. He submitted an application for withdrawal of his voluntary retirement on 11-06-2007. The respondents, however, did not accept the same and issued impugned letter requiring the petitioner to vacate the company's quarter. According to the respondents, the petitioner had made an application for voluntary retirement which was accepted and thereafter towards settlement of petitioner's retiral dues, the respondents deposited Rs.82,165/- in his bank account. As far as ex-gratia amount amount of Rs.2,07,537/- is concerned, the cheque was prepared on 15-05-2007 but it was not released because the petitioner was not vacating the official quarter allotted to him. In this backdrop, the petitioner filed this petition assailing the impugned letter requiring him to vacate the quarter as also assailing the legality of order of his voluntary retirement.

3. The petitioner, in person, argued that he has been defrauded by the respondents. The petitioner submitted that he never applied for voluntary retirement on 17.05.2007. It is an act of fraud, he came to know about the same when he received a letter dated 01.10.2007 for vacating quarter and making enquiry. Thereafter, the petitioner wrote various letters, followed by many recommendations for withdrawal of the Voluntary Retirement. The authorities played fraud with the petitioner. His signatures were obtained by fraud in voluntary retirement application which he came to know on 20.02.2008.

4. Learned counsel for the respondents submits that the petition has been filed on afterthought grounds. The petitioner was earlier transferred to another station where he was not willing to join. The petitioner approached this Court and the petition was disposed off with a direction to consider his representation. The petitioner's representation was considered and rejected on 13.04.2007. Thereafter, the petitioner applied for voluntary retirement on 17.05.2007, the same was allowed with effect from 30.06.2007. The amount of gratuity of Rs.82,165/- was deposited in the account of the petitioner vide cheque No.231374, dated 16.07.2007. The ex-gratia amount of Rs.2,07,537/- was not paid because the petitioner did not vacate the official quarter despite notice. It is highlighted that the petitioner was allotted as many as four quarters, he never wanted to vacate. The petitioner's application for voluntary retirement has been placed on record as Annexure R/2.

5. This Court directed the respondents to place on record the relevant documents i.e. the petitioner's application for voluntary retirement as also the application, by which, he sought to withdraw voluntary retirement, which has been filed by the respondents as Annexure R/2 and R/3 along with an application for taking additional documents on record, with affidavit. The petitioner has not filed any rejoinder traversing the allegations, statement of fact made by the respondents either in their reply or in the application for taking additional documents on record.

6. The entire case of the petitioner is founded on the allegations of fraud played upon him. Plea of fraud as contained in the petition is that after the order of the Court was passed on 21-03-2007 towards consideration of petitioner's application for cancellation of transfer, while deciding application, the respondents took signatures on some papers, saying that those are required for

relieving order for his new place of posting i.e. Chennai. It has been pleaded that the petitioner received a letter on 01-10-2007 (Annexure P/1) requiring him to vacate the official quarter, whereafter he started making enquiry, then he came to know that the alleged application for voluntary retirement has been sanctioned. According to the petitioner, he never made any such application, but the respondents have considered the same application. Therefore, according to the petitioner, it is an act of fraud. Further pleading is that on 20-02-2008, the respondents informed the petitioner about all happenings which came as surprise to the petitioner. According to the petitioner, the petitioner made various applications, which have been collectively filed as Annexure P/3. Further pleadings are that when the respondents did not pay any heed to the petitioner's application, the petitioner sought indulgence of the certain leaders and authorities, who wrote letters for consideration of petitioner's case, collectively filed as Annexure P/4.

7. The allegations made in the petition are blissfully vague and do not fulfill the legal requirements of pleading of fraud. It is well settled that in order to establish fraud, specific pleadings are required to be made and proved by the cogent evidence. The respondents have specifically denied of any fraud having been practiced upon the petitioner. In the petition, it has not been stated as to who was the officer or employee in the office, who played fraud upon him. In the petition, it has been pleaded that while deciding the petitioner's application for cancellation of transfer, the respondents took signatures on some papers, which are required for passing relieving order. This is quite improbable that while deciding application, the petitioner would be asked to sign some documents and the petitioner would sign those documents without reading it. The pleading is not to the effect that the signatures of the petitioner were obtained on blank papers. Moreover, the pleadings of the petitioner are quite contradictory to

contents of his letters, which have been placed on record. The petitioner has placed on record letter dated 11-06-2007, by which, he sought for withdrawal of voluntary retirement, stating his family condition. In this letter, the petitioner has not made any allegation of fraud practiced upon him nor it has been stated that his signatures were obtained by practising fraud. The contents of letter would show that he wanted simple withdrawal of voluntary retirement. The petitioner has placed on record another letter dated 29-05-2007, which does not bear acknowledgment of receipt by any of the offices of the respondent authority. In this application, the petitioner has stated that he was asked to sign some papers stating that these signatures are necessary for release of salary for 3-4 months. Therefore, as directed, he signed those documents. It is contradictory to what has been stated by the petitioner in this petition that while deciding his representation, he was asked to put signatures on some documents, stating that it is required for issuance of his relieving order. In the said letter, it has been stated that the petitioner was surprised when he received a letter dated 18-05-2007 of his retirement. However, in the petition, it has been stated by the petitioner that he came to know about his retirement only when he received a letter dated 01-10-2007 (Annexure P/1).

8. The petitioner has placed on record number of closed envelops sent under registered post to General Manager and Assistant General Manager of the respondents. However, all these envelops were sent by registered post, prior to order of voluntary retirement dated 17-05-2007. In the affidavit dated 29-12-2007, under the heading “Vishesh Kathan”, it has been stated that the petitioner did not fill-up the form of voluntary retirement voluntarily, but he was pressurized to sign the application. Therefore, there is variance in the pleadings, contents of documents and the stand taken by the petitioner, rendering the entire story of he being defrauded, highly doubtful.

9. In the return of the respondents, it has been clearly stated that the petitioner submitted an application for voluntary retirement, after rejection of his representation, as the petitioner was not inclined to proceed on transfer. Later on, along with an application for taking additional documents on record, the respondents have placed on record the petitioner's application for voluntary retirement as Annexure R/2. It bears the signature of the petitioner. On the next page of copy of order dated 17-05-2007 on voluntary retirement, the petitioner received the same under his own signature. The document, Annexure R/2 shows that the it was prepared, checked, certified and also recommended by the Unit Head and thus, more than one officer and employee were involved in the process. The petitioner has not made any specific averment as to which officer played fraud upon him.

10. The petitioner's case is falsified from his own application dated 11-06-2007, Annexure R/3. In this application, the petitioner has prayed for withdrawal of his voluntary retirement. He has clearly stated that after voluntary retirement scheme was floated under the circular, he filled-up the form of voluntary retirement scheme which was accepted also and the effective date of his voluntary retirement scheme is 30-06-2007. In that letter, he further states that at the time, when he filed application of voluntary retirement scheme, he did not consulted family members about the same, but when the family members of the petitioner came to know about the application for voluntary retirement, they started exerting pressure on the petitioner to withdraw the application for voluntary retirement because of his family condition. On this statement, the petitioner sought withdrawal of his voluntary retirement. In this application, there is no whisper of any kind of fraud played upon him and what has been stated in the application, is at complete variance with the entire case of the petitioner as built up in the petition and the documents. The petitioner has neither disputed

nor denied the veracity of the document dated 11-06-2007 (Annexure R/3). The signatures on the documents appear to be same as contained in the various documents and application for voluntary retirement.

11. Therefore, in view of the above consideration, this Court is of the considered opinion that the petitioner has failed to establish the case of fraud against the respondents. It is also relevant to mention that the amount of gratuity worth Rs.82,165/- was deposited in the bank account of the petitioner. The ex-gratia amount has not been paid on the ground that the petitioner is not vacating the official quarter. This petition was filed only when the respondent issued a letter to the petitioner to vacate the official quarter.

12. In view of above, no relief can be granted to the petitioner in this petition. The petition is liable to be dismissed and is hereby dismissed. However, before parting with the case, considering that the petitioner was a class IV employee and litigating the matter since 7 years before this Court, the ex-gratia amount of the petitioner, if not already received by him, shall be paid to him forthwith as soon as he vacates the official quarter by taking lenient view against the petitioner by adopting sympathetic approach towards the petitioner.

SD/-
(Manindra Mohan Shrivastava)
Judge

Tumane