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

+ LPA 5/2016

SHIV PRAKASH SAXENA & ORS.Appellants

Represented by: Mr.S.P.Saxena, Advocate

versus

UNION OF INDIA & ORS.

.....Respondents

Represented by: Mr.Rajesh Gogja, Advocate for
R-1 to R-3

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **05.01.2016**

CM No.204/2016

Allowed subject to just exceptions.

LPA No.5/2016

1. Concurring with the view taken by the learned Single Judge, while dismissing the appeal filed by the appellants, we only add that the case pleaded by the appellants with reference to the so called policy decision taken by the Cabinet is incorrect on facts. The appellants are confusing a note dated November 27, 1991 signed by the Deputy Secretary which was placed before the Hon'ble Minister of Commerce. In the note the proposal is that the proposed VRS Scheme should include terminal benefit by way of pension and commutation limited to 1/3rd of the pro-rata pension.

2. The appellants overlook that the said proposal dated November 27, 1991 was considered at various tiers and ultimately found reflection in a

note for the Cabinet dated April 04, 1994 as per which the VRS Scheme had a onetime package with entire pension to be commuted. In terms of the approval granted by the Cabinet to the note dated April 04, 1994 the VRS Scheme was introduced and terms were notified. Appellants acted under the VRS Scheme. The learned Single Judge had already noted that a writ petition filed in the year 2008 challenging the terms of the voluntary retirement scheme was dismissed and the order attained finality.

3. We would be failing not to highlight that the circular dated May 21, 1994 laid bare the terms of the VRS Scheme. Appellants accepted full benefits under the scheme which included full commutation of the pension and cannot now in the year 2015 raise the issue concerning the scheme.

4. The appeal is dismissed in limine.

5. For record we note that appellant No.1 is a lawyer and he has filed the appeal in his capacity as a lawyer for all the appellants.

6. No costs.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

JANUARY 05, 2016
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