

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE SIDE JURISDICTION  
WRIT PETITION NO. 8217 OF 2015

Mamillapalli Subrahmanyam

.....Petitioner

V/s.

The Managing Director, Food Corporation  
of India and another

....Respondents

Mr. Vikas Mishra for Petitioner.

Mr. Hafeezur Rahman for Respondent nos. 1 & 2.

**CORAM : NARESH H. PATIL &  
Z. A. HAQ, JJ.**

**DATE : 19<sup>th</sup> SEPTEMBER 2017.**

**P.C. (Per: Z. A. Haq, J.)**

1 Heard.

The petitioner was admittedly working with the Food Corporation of India. By the Regulation No. 22 (A) of Food Corporation of India (Staff) Regulations 1971 and Circular dated 29/06/2004 issued by the Food Corporation of India, provision for voluntary retirement was introduced. On 30/06/2004, the petitioner submitted his application showing his intention to opt for voluntary retirement scheme, the retirement being effective from

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30/09/2004. By communication dated 27/08/2004, the proposal of the petitioner for voluntary retirement was accepted and it was communicated to the petitioner. The petitioner accepted the benefits, accepting voluntary retirement.

The petitioner has filed this petition in May 2015 challenging the Order/Communication issued by the respondents, accepting his proposal for voluntary retirement. The petitioner has prayed that the respondents be directed to reinstate the petitioner w.e.f. 01/10/2004 with consequential benefits.

2 The learned Advocate for the petitioner has submitted that as per the proposal of the petitioner he was to retire voluntarily on 30/09/2004 and before that the petitioner had sent communication dated 27/09/2004 informing the respondents that he was withdrawing the proposal for voluntary retirement, and as the petitioner had withdrawn the proposal for voluntary retirement before it became effective, the respondents could not have retired the petitioner and the petitioner was entitled to continue in

service. To support the submission, the learned Advocate for the petitioner has relied on the Judgment given in the case of **Gurucharan Singh Vs. Food Corporation of India and Others** <sup>1</sup>.

The delay in filing the petition is explained by submitting that the petitioner got knowledge that there was some interpolation on his application submitted by him for voluntary retirement and then he applied for obtaining the copy of it under the Right to Information Act, the copy is received by him in 2013 and then the petitioner has filed the writ petition.

3 The learned Advocate for the respondent has submitted that there is inordinate, unexplained delay and laches on the part of the petitioner in filing the writ petition. As far as the merits of the matter are concerned, it is submitted that the petitioner has voluntarily accepted all the benefits and he cannot be permitted to agitate the issue after more than 11 years.

4 After considering the submissions made by the parties and examining the documents placed on record of the petition, we find that the petitioner has not been able to explain the inordinate delay of about 11 years in taking steps

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<sup>1</sup> [2006 (1) L.L.N. 981]

to seek redressal of his grievance. There is no dispute that the employee is entitled to withdraw the proposal for voluntary retirement before it becomes effective, however, in the present case, the conduct of the petitioner disentitles him from any relief under extra ordinary jurisdiction. As recorded above, there is not only inordinate, unexplained delay and laches on the part of the petitioner in filing the writ petition, but the petitioner had voluntarily accepted all the benefits in 2004 and except for the general statement made at the time of hearing that the petitioner had been pursuing the matter with the authorities, the petitioner has not been able to show that he had taken appropriate steps in the matter to seek redressal of his grievance. The petitioner has nowhere stated that he had not secured/opted for any alternate employment since 2004.

5      Moreover, the Circular dated 29/06/2004 by which the voluntary retirement scheme was introduced provide in clause (IV) (2) that employee may seek voluntary retirement by giving three months notice in writing to the Competent Authority, however, the Competent Authority may make payment of notice period of 3 months or for the remaining period of notice and may accept the request for voluntary retirement from any date before the date of

expiry of notice period. Clause (VIII) (d) of the above mentioned Circular provides that once an employee submit application for voluntary retirement under the scheme to the Competent Authority it has to be treated as final and it is not open to the employee to withdraw the same. It lays down that the Competent Authority shall take decision within 3 months to accept or reject the request and shall communicate the same to the concerned official. The above provisions enable the Competent Authority to take decision on the application of the employee, even before the period of notice comes to an end. In the present case, the Competent Authority acted in consonance with the requirements of the policy and took decision and communicated it to the petitioner within 3 months.

6 We do not find any arbitrariness or illegality in the decision of the respondent. We see no reason to interfere in the matter.

7 Writ petition is dismissed. In the circumstances, the parties to bear their own costs.

**[Z. A. HAQ, J.]**

**[NARESH H. PATIL, J.]**