IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

304 **CWP-19852-1998 (O&M)**
Date of decision:23.08.2017

Piare Lal (decased) represented through LRs

....Petitioner

Versus

State of Haryana and others

.... Respondents

(2) **CWP No. 6177 of 2000 (O&M)**

Suresh Kumar Sharma and others

....Petitioners

versus

State of Haryana and others

... Respondents

(3) **CWP No. 495 of 1999 (O&M)**

Jai Singh and others

....Petitioners

versus

State of Haryana and others

... Respondents

(4) **CWP-10235-1999 (O&M)**

Mam Raj Singh and others

....Petitioners

versus

State of Haryana and others

... Respondents

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CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. S.S.Rana, Advocate for the petitioner.

Mr. J.S.Bedi, Addl. A.G. Haryana.

Mr. Shiv Kumar, Advocate for respondent No.3.

P.B. BAJANTHRI, J. (ORAL)

This order shall dispose of the aforementioned four petitions. However, for convenience and clarity, facts are being taken from petition bearing No. 19852 of 1998.

2. In the instant writ petition, petitioners have challenged validity of Annexure P5 dated 04.02.1998 by which state-respondents have rejected the petitioners' claim with reference to demand notice dated 14.02.1996.

3. Petitioners were stated to be employees of the respondent No.3-Management. Third respondent evolved voluntary retirement scheme for the employees on 25.02.1995. Based on the voluntary retirement scheme petitioners' were stated to have submitted their application for voluntary retirement in the month of February, 1995. The same were considered and accepted by respondent No.3 on 08.03.1995. The petitioners were stated to have issued a demand notice on 08.01.1996 and 14.02.1996. State-respondent while deciding the demand notice for the purpose of reference to the Industrial Tribunal passed an order on 04.02.1998 rejecting the demand notice of the petitioners. Hence, the present petition.

4. Learned counsel for the petitioners vehemently submitted that VRS scheme as well as acceptance of VRS application of the petitioners are contrary to Section 18(1) of the Industrial Disputes Act. It was further

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submitted that petitioners were compelled to give application for voluntary retirement. There was coercion/duress upon the petitioners by respondent No.3 to opt for the voluntary retirement. Therefore, rejection of petitioners claim by the State-respondent vide Annexure P5 dated 04.02.1998 is liable to be set aside. The petitioners are not disputing that they have submitted application for voluntary retirement, its acceptance and also acceptance of monetary benefits arising out of the voluntary retirement scheme. It was submitted that in identical matter Supreme Court in the case of ***Man Singh versus Maruti Suzuki India ltd. and another*** reported in 2011 (4) RSJ 405 held that even if an employee opted for VRS under duress in that event he is entitled to return the VRS monetary benefits and seek for reinstatement. Thus, the petitioners' case is also identical to that of ***Man Singh's case (supra)***. Further learned counsel for the petitioners relied on various other judgments of different High Court's in support of the petitioners' claim to the extent that if VRS is taken under duress in that event the same could be challenged for the purpose of reinstatement and continuity of service with the employer.

5. Per contra, learned counsel for respondent No.3 submitted that worker's Union entered into settlement on 25.02.1995. Consequently on 01.03.1995 each worker has entered into a settlement. Such settlement documents have been forwarded to the concerned department of the State Government. Thus State Government after due noticing settlement between the employer and employee proceeded to reject petitioners' claim on 04.02.1998 (Annexure P5). Therefore, there is no infirmity in the decision

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of the State Government. It was further submitted that in the demand notice respondents have admitted relating to submission of application for voluntary retirement, its acceptance and so also acceptance of monetary benefits. Learned counsel for the respondents in support of their contention to the extent that once the employee entered into settlement he cannot go back and say that voluntary retirement has been accepted under duress relied upon number of judgments. It is also submitted that acceptance of voluntary retirement was in the month of March, 1995 whereas, demand notice was issued on 08.01.1996. If the petitioners had really any grouse against acceptance of VRS under duress they could have proceeded immediately within a reasonable period of one or two months. No material has been placed on record that petitioners' are accepting VRS benefits under protest. Therefore, having regard to the conduct of the petitioners, they are not entitled to relief sought in the present petition.

6. Heard learned counsel for the parties.

7. Crux of the matter in the present petition is whether petitioners can turn back and say that acceptance of VRS is under duress/coercion. Having regard to the dates and events of the case like introduction of voluntary retirement scheme on 25.02.1995, petitioners are stated to have submitted their application in the month of February, 1995. It was accepted on 08.03.1995. If the petitioners' contended that introduction of voluntary retirement scheme and its implementation is under duress in that event petitioners should have raised their objection or dispute within reasonable period from the date of acceptance of voluntary retirement i.e. March/April,

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1995. They could have approached State government-concerned authority like Labour Commissioner complaining that respondent No.3 is compelling them to opt for voluntary retirement in the month of February to March, 1995. On the other hand, for the first time demand notice was issued on 08.01.1996 and thereafter on 14.02.1996. Petitioners have slept over the matter from 08.03.1995 to 08.01.1996. Therefore, petitioners cannot turn around and say that acceptance of voluntary retirement scheme is due to extraneous reason or under duress and their contention would be after though. Further perusal of Section 18(1) of the Industrial Disputes Act, read with factual aspects of the case in hand it is crystal clear that there is a settlement between respondent No.3 and petitioners' Union on 25.02.1995 and further with an individual workman there was settlement on 01.03.1995. Both these settlements were brought to the notice of the State government. State government has taken into consideration that the petitioners have already accepted the voluntary retirement scheme and so also submitted an application for voluntary retirement. Thus, State government rightly rejected the demand notice of the petitioners with reference to the fact that petitioners have accepted VRS. Grievance of the petitioners falls under the doctrine of estoppel. The petitioners once accepted the voluntary retirement scheme thereafter, they cannot turn around and question the same that too after acceptance of monetary benefits. Even to this day petitioners have not returned the monetary benefits which were paid to them by respondent No.3 on the ground of acceptance of VRS. There is no protest letter after acceptance of the VRS.

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Man Singh's case (Supra) could be distinguished with reference to the present case. Since the reasoning has not been assigned insofar as delay from the date of acceptance of VRS to the date of issuance of demand notice. One can understand if the acceptance of voluntary retirement is dated 08.03.1995 or in the month of March, 1995. Petitioner could have raised a dispute or issued a legal notice to respondent No.3 stating that petitioners were exercising their option for the purpose of voluntary retirement under duress. But issuance of demand notice is only on 08.01.1996 and 14.02.1996 and it is an after thought. Hence decision of ***Man Singh's case (supra)*** is distinguishable with reference to the present case.

8. Accordingly, CWP stands dismissed.

(P.B.BAJANTHRI)
JUDGE

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Whether speaking/reasons Yes/No

Whether Reportable: Yes/No

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