

**310 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**1. CWP No.7894 of 2002 (O&M)  
Date of decision : May 24, 2017**

**Mehar Singh Kadian ..... Petitioner**

**Versus**

**Chairman-cum-Managing Director and another ..... Respondents**

**2. CWP No.7975 of 2002 (O&M)**

**Janardhan Maurya ..... Petitioner**

**Versus**

**Chairman-cum-Managing Director and another ..... Respondents**

**3. CWP No.8798 of 2002 (O&M)**

**Mohinder Singh ..... Petitioner**

**Versus**

**Chairman-cum-Managing Director and another ..... Respondents**

**4. CWP No.8844 of 2002 (O&M)**

**Mangat Singh ..... Petitioner**

**Versus**

**Chairman-cum-Managing Director and another ..... Respondents**

**5. CWP No.8875 of 2002 (O&M)**

**Om Singh ..... Petitioner**

**Versus**

**Chairman-cum-Managing Director and another ..... Respondents**

**6. CWP No.8995 of 2002 (O&M)**

**Sada Ram ..... Petitioner**

**Versus**

**Chairman-cum-Managing Director and another ..... Respondents**

7. CWP No.9017 of 2002 (O&M)

Ishwar Singh ..... Petitioner

Versus

Chairman-cum-Managing Director and another ..... Respondents

8. CWP No.9018 of 2002 (O&M)

Jai Bhagwan ..... Petitioner

Versus

Chairman-cum-Managing Director and another ..... Respondents

9. CWP No.9019 of 2002 (O&M)

R.R. Birok ..... Petitioner

Versus

Chairman-cum-Managing Director and another ..... Respondents

10. CWP No.9020 of 2002 (O&M)

Krishan Lal Malik ..... Petitioner

Versus

Chairman-cum-Managing Director and another ..... Respondents

11. CWP No.7912 of 2003 (O&M)

Harpal Singh Matwala ..... Petitioner

Versus

Chairman-cum-Managing Director and another ..... Respondents

12. CWP No.7913 of 2003 (O&M)

Ram Phal Malik ..... Petitioner

Versus

Chairman-cum-Managing Director and another ..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

**Present:-** Mr. Navratan Singh, Advocate for  
Mr. Navkiran Singh, Advocate for the petitioner.

Mr. Mukul Aggarwal, Advocate for the respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

**KULDIP SINGH J. (ORAL)**

This order of mine shall dispose of twelve writ petitiones bearing CWP Nos.7894, 7975, 8798, 8844, 8875, 8995, 9017 to 9020 of 2002, 7912 and 7913 of 2003, involving the same question of law and facts. For brevity, the facts have been taken from CWP No.7894 of 2002.

All the petitioners in the aforesaid petitions, were the employees of National Fertilizers Limited, Panipat and were working in various capacities. On 17.10.2001, a Voluntary Retirement Scheme (for short 'VRS') was floated, which was in operation for a period of two months i.e. from 01.11.2001 to 31.12.2001.

Offering VRS to the employees, there was a contiguous clause 4.1, which is reproduced as under:

*“ 4.1 The calculation of compensation under the VRS would be based on every completed year of service or part thereof. The part of the completed year served shall be entitled for ex-gratia on pro-rata basis. For computation of ex-gratia under VRS, a month will be taken of 26 days. ”*

Under the said Clause, month will be taken of 26 days for calculating the compensation of VRS.

It comes out that the petitioners, namely, Mehar Singh Kadian applied for VRS on 09.11.2001, Ishwar Singh applied for 22.11.2001, Mohinder Singh applied for 22.11.2001 and Janardhan Maurya applied for 09.11.2001. Rest of the petitioners applied after 22.11.2001. It further comes out that vide another letter dated 22.11.2001 (Annexure P-6), Clause 4.1 was modified, which is as under:

*“4.1 The Calculation of compensation under the VRS would be based on every completed year of service or part thereof. The part of the completed year served shall be entitled for ex-gratia on pro-rata basis. For computation of ex-gratia under VRS, a month will be taken of 30 days.”*

Under this Clause, month will now be taken as 30 days, with the result that the amount of compensation on account of VRS will be reduced.

Petitioners claim that they are entitled to compensation in terms of the VRS dated 17.10.2001 (Annexure P-1) by treating the month as 26 days. Therefore, they have been paid less and entitled to the enhanced compensation in terms of VRS dated 17.10.2001 (Annexure P-1).

The respondents in the written statement while reiterating the VRS, stated that the amended CRS was notified on the notice board in all the premises. Everybody, who applied for VRS could withdraw his application. It was further stated that after amendment of the scheme, many employees withdrew their request for VRS. It was also mentioned that some of the employees in Delhi, namely, Smt. C.K. Chaudhary and Shri N.K. Subramanian withdrew their requests for VRS.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the respondents has vehemently argued that since the amended VRS dated 22.11.2001 (Annexure P-6) is not challenged, therefore, the present petition(s) is/are not maintainable.

I am of the view that the petitioners claim that the original VRS dated 17.10.2001 (Annexure P-1) is applicable to them. Therefore, they are entitled to compensation as per said scheme. Thus, amended VRS dated 22.11.2001 (Annexure P-6) is not required to be specifically challenged.

The question for consideration is as to on which employee the calculation method of compensation treating 26 days as month will apply and on which employee, the calculation method for treating 30 days as month will apply?

It comes out that petitioners, namely, Mehar Singh Kadian, Ishwar Singh, Mohinder Singh and Janardhan Maurya, applied for VRS dated 17.10.2001 (Annexure P-1) on different dates before the Notification dated 22.11.2001 (Annexure P-6) was issued. The petitioners were working in National Fertilizers Limited, Panipat. Respondents have given the example of withdrawal of VRS applications, which pertain to some officers in Delhi. Respondents have taken the stand that the modified VRS dated 22.11.2001 (Annexure P-6) was duly notified on the Notice Board. However, there is nothing on file to show that it was brought to the notice of the petitioners, who had applied by that time.

I am further of the view that when the petitioners applied under the VRS dated 17.10.2001 (Annexure P-1) and the same was accepted by

the respondents, they are bound by the representation made by the the petitioners and VRS dated 17.10.2001 (Annexure P-1) to treat the month as of 26 days.

However, after amendment of VRS, if somebody applied, he would be bound by the amendment treating the month as of 30 days.

In view of the aforesaid, the petitions bearing CWP Nos.7894, 9017, 8798 and 7975 of 2002 filed the petitioners, namely, Mehar Singh Kadian, Ishwar Singh, Mohinder Singh and Janardhan Maurya, respectively, are allowed and the petitions bearing CWP Nos.8844, 8875, 8995, 9018 to 9020 of 2002, 7912 and 7913 of 2003 are dismissed. The respondents are ordered to pay VRS compensation to the petitioners, namely, Mehar Singh Kadian, Ishwar Singh, Mohinder Singh and Janardhan Maurya by treating a month as of 26 days and accordingly, calculate the pension and disburse the same along with interest @ 9% per annum interest on the arrears shall also be payable starting three months till the date of payment.

**(KULDIP SINGH)**  
**JUDGE**

**May 24, 2017**

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Whether speaking / reasoned                      Yes

Whether Reportable:                                      No