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

\+ W.P.(C) 4324/2017

HEMANT KUMAR & ORS ..... Petitioners

Through: Mr.Ajay Sharma, Mr.Rajesh Tiwari and Mr.Jatin Sharma, Advs.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr.Nirvikar Verma, Adv. for UOI.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR.JUSTICE C.HARI SHANKAR

<u>O R D E R</u>

% 19.05.2017

<u>C.M.APPL.18819-18821/2017 (exemption)</u>

Allowed, subject to all just exceptions.

The applications stand disposed of.

<u>W.P.(C) 4324/2017</u>

The petitioners had resigned before notification, of the Life Insurance Corporation of India Class-I officers (Revision of Terms and Conditions of service) Amendment Rules, 2016, on 14.01.2016.

Rule 2 and 3 of the aforesaid Rules read as under:

"(2) Save as otherwise provided in these rules, these rules shall be deemed to have come into force on the 1st day of August 2012.
(3) These rules shall be applicable to those Class I Officers who were in the whole-time salaried service in the permanent establishment of the Corporation on or after the 1st August, 2012:

Provided that where any Class I Officer gives a notice in *writing to the Corporation, within a period as specified by the Corporation, expressing his option to be governed by the provisions of these rules from a date not earlier than the date on which the said rules come into force and not later than the date of publication of this notification in the Official Gazette, then the Corporation may, be order permit such Officer to be governed by the said rules with effect from the said date and no arrear for the period prior to the date so opted shall be payable to such officer;*

Provided further that the officers whose resignations had been accepted or whose services had been terminated under rule 39 of Life Insurance Corporation of India (Staff) Rules, 1960 during the period from the 1st August 2012 to the date of publication of this notification in the Official Gazette, shall not be eligible for the arrears on account of revision."

The Rules had revised the pay-scales for the in service Class-I employees of the Corporation with effect from 01.08.2012.

However, the second proviso to the Rule 3 stipulates that the provisions giving enhanced salary with retrospective effect would not be applicable to officers whose resignation have been accepted and whose services were terminated under Rule 39 of the Life Insurance Corporation of India (Staff) Rules, 1960 between 01.08.2012 and 14.01.2016, i.e. the date of notification. These officers were not eligible and entitled for arrears on account of pay revision.

The petitioners herein have challenged the vires of the proviso as violative of Article 14. It is submitted that the petitioners' had worked and therefore on parity should be paid arrears.

We do not find any merit in the challenge as there is a clear distinction between the officers who are still in service and who had resigned or whose services were terminated. The Rules revising the pay-scale have been given retrospective effect, albeit to in service officers on the date when the Rules were notified. Those who had resigned and had voluntarily left the Corporation form a separate class of employees. One of the primary objectives of pay revision is to make the pay scales attractive and incentivise service conditions to retain good and efficient employees and curtail attrition. This spirit, coupled with right of the employer to decide the date when to grant upgraded pay scales should not be curtailed and struck down as violative of Article 14. The petitioners cannot claim parity and equal treatment with those who remain in service or had retired in normal course. They are not similarly situated. No case of discrimination; much less of invidious discrimination is made out to apply the principle of equal pay for equal work.

The contention that the advertisement or appointment letters had indicated that the pay scales were under revision or upgradation would not matter, for it was not promised that the revision would be with retrospective effect and no date when the revised scales would be applicable was specified. Reference to possible upward revision was to attract good and better talent. On resignation the employer and employee relationship terminated and ended. The accounts were settled as per the contract and statutory obligations.

The writ petition is dismissed, with no order as to costs.

SANJIV KHANNA, J

C.HARI SHANKAR, J

MAY 19, 2017/*mr*