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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 10569/2016

30th January, 2017

ROOP KUMAR SHARMA & ORS

..... Petitioners

Through: Mr. Arman Roop Sharma, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Abhishek Khanna, Govt. Pleader
for R-1/Union of India.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Learned counsel for the petitioners argues that there is mis-joinder of causes of action and parties so far as 15 petitioners are concerned inasmuch as cases of petitioner nos. 1,2 and 15 are on a different plane as compared to other petitioners nos. 3 to 14 inasmuch as whereas petitioners nos. 3 to 14 have taken Voluntary Retirement Scheme (VRS), petitioner nos. 1,2 and 15 have normally retired from the respondent no.2/company. Accordingly, it is prayed, and which prayer is allowed, giving liberty to the petitioners nos. 1,2 and 15 to file a fresh writ petition not only on the facts

as stated in this writ petition but also on any additional facts and causes of action to claim a particular pay-scale, of course in accordance with law.

2. That leaves us with petitioner nos. 3 to 14. These petitioners had opted for a Voluntary Retirement Scheme and they have taken benefits of Voluntary Retirement Scheme. The claim of these petitioners is that they should be allowed to take benefits not under the extant Voluntary Retirement Scheme which was applicable when they took the voluntary retirement but voluntary retirement of these petitioner nos. 3 to 14 should be in terms of a subsequent VRS Scheme dated 18.5.2016 annexed as Annexure P-5.

3. In law, once employees who seek voluntary retirement are granted voluntary retirement, then such employees thereafter cannot seek fresh benefits under a fresh voluntary retirement scheme. This is in view of the ratio of the Supreme Court in the case of ***A.K.Bindal & Another Vs. Union of India and Others (2003) 5 SCC 163*** which states that on taking of VRS Scheme an employee opts for a golden handshake and thereafter there is complete cessation of the jural relationship between the employer and employee and consequently such an employee cannot be permitted to raise a grievance thereafter with respect to enhancement of pay-scale from a retrospective date or taking fresh monetary benefits, and which if allowed,

would completely frustrate the purpose of VRS Scheme. The observations which have been made by the Supreme Court are contained in para 34, which reads as under:-

“34. This shows that a considerable amount is to be paid to an employee ex-gratia besides the terminal benefits in case he opts for voluntary retirement under the Scheme and his option is accepted. The amount is paid not for doing any work or rendering any service. It is paid in lieu of the employee himself leaving the services of the company or the industrial establishment and foregoing all his claims or rights in the same. It is a package deal of give and take. That is why in business world it is known as 'Golden Handshake'. The main purpose of paying this amount is to bring about a complete cessation of the jural relationship between the employer and the employee. After the amount is paid and the employee ceases to be under the employment of the company or the undertaking, he leaves with all his rights and there is no question of his again agitating for any kind of his past rights, with his erstwhile employer including making any claim with regard to enhancement of pay scale for an earlier period. If the employee is still permitted to raise a grievance regarding enhancement of pay scale from a retrospective date, even after he has opted for Voluntary Retirement Scheme and has accepted the amount paid to him, the whole purpose of introducing the Scheme would be totally frustrated.”

(underlining added)

4. In *A.K.Bindal's* case (*supra*) the Supreme Court has also held that in view of the financial conditions of separate PSUs, separate pay-scales are fixed, and courts normally do not interfere in such fixation of pay-scales, and it is noted that fixation of a particular scale would necessarily and obviously have co-relation to a VRS Scheme which is offered to and taken by an employee.

5. I may note that there is no cause of action pleaded in the writ petition of petitioner nos. 3 to 14 having to compulsorily opt for VRS Scheme, and even if that pleading was made, the issue would stand covered by para 35 of *A.K.Bindal's* case (*supra*) and which reads as under:-

“35. The contention that the employees opted for VRS under any kind of compulsion is not worthy of acceptance. The petitioners are officers of the two companies and are mature enough to weigh the pros and cons of the options which were available to them. They could have waited and pursued their claim for revision of pay scale without opting for VRS. However they, in their wisdom thought that in the fact situation VRS was a better option available and chose the same. After having applied for VRS and taken the money it is not open to them to contend that they exercised the option under any kind of compulsion. In view of the fact that nearly ninety nine per cent of employees have availed of the VRS Scheme and have left the companies (FCI & HFC), the writ petition no longer survives and has become infructuous.”
(underlining added)

6. In view of the above discussion, the writ petition is dismissed on account of the ratio of the judgment of the Supreme Court in the case of *A.K.Bindal* (*supra*) as regards petitioner nos. 3 to 14, but the petition is allowed to be withdrawn as prayed for with the liberty as given above so far as petitioner nos. 1,2 and 15 are concerned.

JANUARY 30, 2017

VALMIKI J. MEHTA, J

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