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

+ W.P.(C) 5704/2017

SOHAN LAL AND ORS

..... Petitioners

Through: Mr. Sanjay Ghose, Mr. Rhishabh
Jetley and Mr. Nishak Tyagi, Advs.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. Arpit Shuka, Govt. Pleader for
R1.
Mr. Sonia A. Menon, Adv. for R2.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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11.07.2017

1. The present petition has been filed by the petitioners with the following prayers:

“ In the present facts and circumstances and in the larger interests of justice, this Hon’ble Court may be pleased to:

a) To allow the present petition; and

b) To issue a writ of mandamus, order, direction to the Respondents to compute the retirement dues of the petitioners and their terminal dues as per the 2007 pay scales of Government of India and as extended to employees under the Improved Voluntary Retirement Scheme (“IVRS”) of the Respondent No.2 dated 16.08.2016 and to pay the differential amount within such time period and along with interest at such rate of interest as this Hon’ble Court may deem just and fair

in the facts of the case and in the interests of justice;

- c) to Award the cost of the petition to the petitioners;*
- d) To Pass any such other order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. It is the submission of Mr. Sanjay Ghose, learned counsel for the petitioners that the petitioners were the regular employees of Breakfast Food Unit of the Hindustan Vegetable Oil Corporation Ltd. (HVOC) having retired on 31st July, 2016, 30th September, 2015 and 31st August, 2014 respectively. He would submit that immediately after the retirement of the petitioners, the HVOC respondent no. 2 has floated an Improved Voluntary Retirement Scheme (IVRS) on 16th August, 2016 to the employees who were on the regular rolls of the respondent no.2 as on 1st August, 2016. Those employees who opted for the IVRS, their terminal / retirement benefits have been computed by adopting 2007 pay scales as against the petitioners who have to content themselves under the pay scales of 1992. He states that this is arbitrary and the petitioners are only claiming that respondent no.2 should compute the retirement dues of the petitioners as per the 2007 Pay Scales of Govt. of India as extended to the other employees under IVRS.

3. I am not in agreement with the submissions made by Mr. Ghose for more than one reason, firstly when the Scheme was floated on 16th August, 2016 the petitioners were not on the rolls of HVOC, as such they were not covered under the provisions of the IVRS 2016. Secondly, if the claim of the petitioners is accepted then similarly placed employees who retired after

2007 may also seek similar benefits.

4. The plea of Mr.Ghose that as the petitioners have approached this Court, they are entitled to the relief, does not impress me as any claim of the petitioners, if allowed would frustrate the IVRS Scheme, 2016 itself as those employees, who sought premature retirement under IVRS 2016 can contend, if such a benefit is admissible to a normal retiree then they would not have sought premature retirement. In other words, possibly, it is the stipulation of granting retirement/terminal benefits based on the pay scales of 2007 and not under the pay scales of 1992, which motivated the employees to seek retirement under IVRS 2016. The terminal benefits based on 2007 scales was peculiar to IVRS Scheme. Such benefit was not given in an earlier Scheme. Surely, a retirement in normal course shall be regulated by the Rules in vogue on the retirement date. Suffice to state, the petitioner form a separate class. In this case also, the judgment of the Supreme Court in the case of *A.K. Bindal & Another vs. Union of India and Ors. (2003) 5 SCC 163* would have an applicability inasmuch as, no grievance can be raised seeking any benefit, which would frustrate the purpose of a VRS Scheme.

5. I may note here that the learned counsel for the respondent No.2 has taken an objection that without the leave of the Company Court under Section 446 of the Companies Act, the present petition is not maintainable. As I have not found any merit in the petition, this issue is not gone into. The petition is dismissed.

V. KAMESWAR RAO, J

JULY 11, 2017/jg