

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5448 of 2003

ORDER :

This writ petition is filed seeking a Writ of Mandamus, declaring the action of respondents 2 and 3 in withholding 50% of further amount of ex-gratia and Rs.1,000/- each from petitioners as advance bonus amount and not paying the same at VRS settlement as arbitrary, illegal and high handed on the part of respondents 2 and 3.

It has been contended by the petitioners that they are seasonal permanent employees of respondent-sugar factory and they have responded to G.O.Ms.No.14, dated 01.05.2002, wherein, voluntary retirement scheme was offered to the employees of respondent-sugar factory. The respondents have paid only 50% of VRS benefits and also not disbursed Rs.1,000/- advance bonus to the petitioners. Challenging the same, the petitioners have filed the present writ petition.

It has been contended by the petitioners that as per the scheme of voluntary retirement offered in G.O.Ms.No.25, dated 21.05.2001 the two years service of seasonal workers will be treated as one year for the purpose of calculation of ex-gratia. The said G.O. was superseded vide G.O.Ms.No.14, dated 01.05.2002 and there is a reference of G.O.Ms.No.16, dated 21.03.2001 in the said G.O.Ms.No.14, dated 01.05.2002 and employees who give their consent for VRS will be straightaway offered VRS benefits in terms of G.O.Ms.No.16, dated 21.03.2001. As per G.O.Ms.No.25, dated 21.05.2001, there is no distinction between seasonal workers, permanent and regular employees. Whoever completes 6 months, will be entitled for certain benefits and the

service rendered less than 6 months will not be counted for the purpose of VRS benefits. It is contended that the action of respondents in paying Special Compensation Package to the petitioners in terms of G.O.Ms.No.25, dated 21.05.2001 when the said G.O. was superseded by G.O.Ms.No.14, dated 01.05.2002, is arbitrary and illegal and the petitioners are entitled for ex-gratia as fixed in G.O.Ms.No.16, dated 21.03.2001 and contend that the writ petition be allowed and respondents be directed to pay ex-gratia as fixed in G.O.Ms.No.16, dated 21.03.2001. They contend that the writ petition be allowed and respondents be directed to pay ex-gratia as computed in terms of G.O.Ms.No.16, dated 21.03.2001 on par with permanent employees.

The learned Standing Counsel appearing for respondents 2 and 3 had contended that seasonal workers are different workers and permanent and regular employees are altogether different. G.O.Ms.No.25, dated 21.05.2001 specifically deals with seasonal workers and G.O.Ms.No.16, dated 21.03.2001 deals with permanent and regular employees. The petitioners cannot equate themselves with permanent and regular employees of respondent-sugar factory. Therefore, they are not entitled for ex-gratia in terms of G.O.Ms.No.16, dated 21.03.2001. The writ petition is devoid of merit and is liable to be dismissed.

The learned Standing Counsel for respondents 2 and 3 further contend that the petitioners have received the amounts i.e. ex-gratia under special compensation package in terms of the scheme offered to them without any protest and after accepting the VRS benefits, they cannot turn back and seek benefits, which is not permissible in law, as

declared by the Hon'ble Supreme Court in the case of *A.K.Bindal v. Union of India*¹. The learned Standing Counsel further contend that G.O.Ms.No.14, dated 01.05.2002 superseded G.O.Ms.No.25, dated 21.05.2001 only in respect of providing alternative employment in a private Company, which will be taking over the Public Sector Undertaking. That does not mean that the entire G.O.Ms.No.25, dated 21.05.2001 has been superseded. Thus, the petitioners being seasonal workers, are covered by G.O.Ms.No.25, dated 21.05.2001 only, but are not covered by G.O.Ms.No.16, dated 21.03.2001.

This Court, having considered the contentions of both the parties, is of the considered view that the respondents have rightly paid Special Compensation Package to the petitioners and no illegality has been committed by the respondents in paying the above said compensation to the petitioners. The petitioners are not entitled for ex-gratia benefits in terms of G.O.Ms.No.16, dated 21.03.2001.

For the aforesaid reasons, there are no merits in the writ petition and the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

15th November 2018

ajr

¹ 2003 (5) SCC 163