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

\+ LPA 69/2018

VIJENDER SINGH CHAUHAN ..... Appellant
Through: Mr. M.B. Singh, Adv.

versus

UNION OF INDIA & ORS ..... Respondents
Through: Mr. A.P. Nagrath & Mr. Anish Kumar, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **30.11.2018**

1. Seeking exception to an order passed by the learned writ court on 29.11.2017 in W.P.(C) 4933/2013 dismissing the writ petition filed by the appellant whereby claim made for granting benefit under the IRCON Medical Trust Scheme has been rejected, this appeal has been filed under Clause 10 of the Letters Patent.

2. Appellant was appointed as a Deputy Manager in IRCON International Ltd. in the year 1983. On 22.08.2017, after completing 24 years of service, he resigned.

3. The company had created a Trust for extending medical benefit to superannuated employees. The Trust formulated the IRCON Medical Trust Rules and initially the eligibility condition stipulated in the Rules for grant of medical facility was that only such employees would be granted medical facility who retire on attaining the age of superannuation or after completing

15 years of service. There was no provision in the eligibility condition for permitting medical benefit to employees who resigned from service. It seems that the Board of Trustees on 17.02.2011 proposed certain amendments to the Rules and introduced a new eligibility condition, namely, Rule - 2A which reads as under:

> *"**Rule – 2A Eligibility***
>
> *The following employees/their spouses shall be eligible as member/beneficiary of the IMT scheme*
>
> *(i) Superannuated from IRCON after rendering 15 years of service*
> *(ii) Death in harness*
> *(iii) Premature retirement on medical grounds*
> *(iv) Premature retirement other than on medical grounds*
> *(v) Resignation from IRCON after rendering 15 years of service*
> *(vi) Separation arising out of Board level appointments in another CPSE/PSE*
> *(vii) On completion of tenure of a whole time Director*
> *(viii) All the existing members/beneficiaries of the IMT scheme."*
>
> *(emphasis supplied)*

4. *Inter alia* contending that in view of this amendment appellant who had resigned after rendering 15 years of service was eligible to get the benefit of the Rules. However, the same was rejected on the ground that as per the Trust Deed the Board of Trustees were empowered to amend the Trust Deed but the same was subject to the approval of the Managing Director and in this case as the proposed amendment by the Trust as reproduced hereinabove i.e. Rule - 2A as not been approved by the Managing Director it was said that the amendment has not come into force

and therefore the appellant cannot claim the benefit, the learned writ court has upheld the aforesaid provision and we see no error in the same warranting interference.

5. Under Clause 3 of the Trust Deed and the Rules, the object of the Trust and the Rules formulated was to provide medical assistance to superannuated employees of the company and under Rule 11 of the Trust Deed even though the power to amend was available with the Board of Directors of the Trust but the amendment required approval of the Managing Director and no amendment which was contrary to the object of the Trust Deed could be approved. In this case, holding that the amendment was contrary to the object of the Trust Deed i.e. to give medical facility to superannuated employees and further that the amendment has not been approved by the Managing Director the learned writ court has refused to interfere into the matter. A combined reading of Clause 3 and 11 of the Trust Deed along with resolution for amendment clearly shows that in dismissing the writ petition on the grounds as are indicated above no error has been committed by the writ court. The object of the Trust was to grant medical assistance to superannuated employees of the company. The amendment can be proposed by the Board of Trustees but it was to be approved by the Managing Director, that apart the amendment should not be contrary to the main objects of the Trust. In this case, apart from the fact that the amendment was not approved by the Managing Director as required under the Trust Deed, it was also found that the proposed amendment ran contrary to the mandate of the objective of the Trust that was to give medical benefit to the retired employees.

6. Taking note of all these circumstances, the writ petition having been dismissed, we find no reason to make any indulgence into the matter. The appeal is also rejected.

CHIEF JUSTICE

V. KAMESWAR RAO, J

NOVEMBER 30, 2018
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