

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A. No. 1579 of 2013

1. A.T. Lingan
2. R. Narayanan
3. R. Rajamanickam
4. S. Murugan
5. Sivaiah
6. N. Raju
7. T. Sickari
8. Philomin raj
9. G.N. Raju
10. H.B. Ramakrishnan
11. K. Indralkha
12. I. Kadarkutty
13. M.Jayabalan
14. L.Lakshmanan
15. T.N. Logarajan
16. H.Sivaji
17. M.Lakshmanan
18. N. Pappan
- 19 M.J. Thimme Gowda
20. R. Lakshmi
21. S.Bhojan

... Appellants

Vs.

1. Union of India
Rep. By its Secretary
Ministry of Heavy Industries &
Public Enterprises (Dept. of Public Enterprises)
Block No.14, CGO Complex,
Lodhi Road,
New Delhi

2. The Chairman-cum-Managing Director
Hindustan Photo Films
Indu Nagar
Ootacamund - 643 005

... Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 07.01.2013 in W.P. No. 7829 of 2011 on the file of this Court.

WP No.7828 of 2011: Writ petition filed under article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to clause 3 of Memorandum No.2(32) 97-DPH (WC) GI-1, VI dated 06.11.2001 issued by the 1st Respondent and the records pertaining to the proceedings dated 29.11.2006 issued by the 2nd Respondent, quash the same and direct the 2nd respondent to extend the benefits of Memorandum No.2 (32) 97-DPH (WC) GI-I, VI dated 06.11.2001 to the petitioner.

For Appellants : Mr. R. Subramanian

For Respondents : Mr. J. Madanagopal Rao for R1

Mrs. Rita Chandrasekar
for M/s. Aiyar & Dolia for R2

JUDGMENT

(Delivered by M.M.Sundresh,J.)

The appellants were employees of the second respondent company who retired during the period 1995-2000. They accepted the Voluntary Retirement Scheme (VRS) offered to them pursuant to the circulars dated 4.11.1998 and 09.11.1998. These circulars speak about the wage revision subject to the approval of the Government. Unfortunately, no such approval was forthcoming. It appears that by a subsequent decision wage revision was done to the existing employees with effect from 2007 in the year 2011 with retrospective effect. The appellants sought for the very same benefit to be paid by the second respondent company which was rejected and hence they approached this Court. The learned Single Judge dismissed the writ petition and hence the present writ appeal.

2. To be noted, considering the same request made by employees, who are the beneficiaries of the VRS Scheme, a Division Bench of this Court in VR[HPF] Senior Citizens Welfare Association v. The Secretary, Union of India (by judgment dated 25.10.2018 passed in W.A.No. 1475 of 2016), rejected the prayers sought for.

3. Learned counsel appearing for the appellants would submit that the Apex Court has repelled the similar contention in A.K. Bindal and another v. Union of India and others, reported in (2003) 5 SCC 163 in which the statement made by the learned Attorney General for India will have to be made applicable to

all the public service undertakings. Therefore, appropriate orders will have to be passed.

4. We are not inclined to accept the said submission. The submission made by the learned Attorney General was in a different context in which a different Scheme was involved. In any case, law has been laid down by the Apex Court in A.K.Bindal (supra). When once the benefit is derived and acted upon by accepting the VRS Scheme, it is not open to the erstwhile employees to seek subsequent benefits based upon something which has been conferred on the existing ones. Therefore, in law, the appellants are not entitled to any benefits as held by this Court in VR[HPF] Senior Citizens Welfare Association (supra).

5. The appellants having accepted the VRS Scheme, which clearly speaks about the wage revision only subject to the concurrence of the Government which was not forthcoming, coupled with the fact that the second respondent has been declared as sick unit and at present under the management of the Official Liquidator, the relief as sought for cannot be granted.

6. Admittedly, the appellants ceased to be the employees of the second respondent company and in any case they cannot be compared with the existing employees who are given benefit in the year 2011 with retrospective effect from the year 2007.

Accordingly, the writ appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(AS)

//True Copy//

ssm
To

Sub Assistant Registrar

1. The Secretary
Union of India
Ministry of Heavy Industries &
Public Enterprises (Dept. of Public Enterprises)
Block No.14, CGO Complex,
Lodhi Road,
New Delhi

+1 cc to Mr.J.Madanagopal Rao, Advocate, S.R.No.3572

W.A. No. 1579 of 2013

BS (CO)
SSM(18/02/2019)