

LPA No. 652 of 2019 (O&M) & other connected matters

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**LPA No. 652 of 2019 (O&M)
Date of decision: 21.5.2019**

Narinder Kumar

... Appellant

Versus

**Chairman-cum-Managing Director C/o Thapar House, Ballarpur
Industries, Gurgaon and others ... Respondents**

ii)

LPA No. 653 of 2019 (O&M)

Kamal Singh

... Appellant

Versus

**Chairman-cum-Managing Director C/o Thapar House, Ballarpur
Industries, Gurgaon and others ... Respondents**

iii)

LPA No. 720 of 2019 (O&M)

Suresh Kumar

... Appellant

Versus

**Chairman-cum-Managing Director C/o Thapar House, Ballarpur
Industries, Gurgaon and others ... Respondents**

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Gautam Kaile, Advocate, and
Mr. Ashwani Antil, Advocate,
for the appellant(s).

ARUN PALLI, J. (ORAL)

These are intra-court appeals, under Clause X of the Letters
Patent, against an order and judgment dated 9.2.2018, rendered by the
learned Single Judge, vide which the writ petitions filed by the respondent-

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Management were allowed, and as a consequence, the award dated 30.9.2014 passed by the Labour Court, reinstating the appellants-workmen with continuity of service and full back wages, has since been set aside.

For all these appeals arise out of the same order and judgment, these are being disposed of by a common order. However, the facts are being derived from LPA No. 652 of 2019.

The respondent-Management launched a voluntary retirement scheme on 23.1.2009: Voluntary Retirement Scheme for Non-Management Clerical Staff 2009 ('the Scheme' for short). And, those who were covered thereunder could opt for voluntary retirement up to 16.2.2009. Concededly, the appellants-workmen opted for voluntary retirement and submitted their applications within the specified time. Their proposal was duly accepted by the respondent-Management on 24.2.2009, and they were informed that they would serve up to 1.4.2009. It is not disputed either that besides the benefits under the Scheme, they were also paid the requisite remuneration for the said period, i.e. 24.2.2009 to 1.4.2009. And were accordingly relieved on 1.4.2009. The plea set out by the appellants that they were coerced to opt for voluntary retirement under the Scheme, as otherwise they were threatened to be transferred to Barabanki (Uttar Pradesh) was rejected, for the learned Single Judge concluded that if it was actually, they could lodge their protest instantly or resort to the other remedial measures, but they did not do so. In fact, the cause of action accrued to them on 16.2.2009, when they submitted their applications and sought voluntary retirement. Further, their proposal seeking voluntarily retirement from service was accepted on 24.2.2009, and they were relieved from service on 1.4.2009, but during all this while, they did not even once rake up any dispute and continued to abide by the terms of the Scheme.

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The records show that the appellants-workmen having accepted the Scheme and its terms, not only signed one but numerous documents, and drew the benefits envisaged thereunder. Not even once, a complaint either questioning the validity of the Scheme or the appellants-workmen were coerced to opt therefor was made to any statutory authorities. Significantly, it was nearly after a year a binding contract had come into being between the parties and the appellants-workmen had utilised the benefits they had drawn under the Scheme (**as depicted hitherto below**), they raised a dispute on 9.3.2010;

Particular	Amount	Cheque No./Date	Name of Bank
VRS Compensation	1,00,000.00	186115/06.04.2009	PNB, YNR
	2,74,990.25	186292/11.04.2009	PNB, YNR
Packing & Transportation	50,000.00	186378/16.04.2009	PNB, YNR
Total (A)	4,24,990.25		
Provident Fund	4,20,619.99	187008/19.05.2009	PNB, YNR
Gratuity	2,29,214.76	188485/13.08.2009	PNB, YNR
Leave Encashment	40,950.36	186507/20.04.2009	PNB, YNR
Medical	10,579.00	186431/17.04.2009	PNB, YNR
Super Prodn. Bonus	41,171.64	Credited to salary a/c in PNB, YNR	
TOTAL (B)	7,42,537.75		
GRAND TOTAL (A+B)	11,67,526.00		

It was in this backdrop, the learned Single Judge had concluded that the appellants-workmen could not be permitted to turn around and plead that they had sought voluntary retirement under force/pressure/coercion. And, since the Labour Court had apparently failed to analyse the matter from this standpoint, the award dated 30.9.2014 was set aside, being wholly unsustainable.

Thus, upon a consideration of the matter and the material on

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record, the only and the inevitable conclusion one could reach; the dispute raised by the appellants-workmen lacked bonafides and was merely speculative and an afterthought. Hence, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge.

The appeals being devoid of merit are accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

May 21, 2019
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO