

12.WP4023_2021

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4023 OF 2021

Bharat Bhagwan Dhage ... **Petitioner**
vs.
The Chairman and Managing Director,
Bharat Sanchar Nigam Ltd. & Ors. ... **Respondents**

**WITH
WRIT PETITION NO. 1694 OF 2021**

Patilrao Bhimrao Kolhe ... **Petitioner**
vs.
The Chairman and Managing Director,
Bharat Sanchar Nigam Ltd. & Ors. ... **Respondents**

**WITH
WRIT PETITION (St.) NO. 97266 OF 2020
(Not on board, taken on board)**

Ashok Chander Shetye ... **Petitioner**
vs.
The Chairman and Managing Director,
Bharat Sanchar Nigam Ltd. & Ors. ... **Respondents**

Mr. Shashank Chandrakant Mangle for the petitioners.

**CORAM : DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE : AUGUST 11, 2021

PC :

1. All these writ petitions involve common questions of fact and law and, therefore, would stand disposed of by this common order.

2. The petitioners were employees of Bharat Sanchar Nigam Ltd. ("BSNL", for short). BSNL floated the Voluntary Retirement Scheme, 2019 on November 4, 2019. Paragraphs 4 and 7 of such scheme being relevant, are quoted below:

"4. Operation of the Scheme

The effective date of Voluntary Retirement under this scheme shall be 31.01.2020. The Scheme Shall come into force from the date of issue of notification inviting option for voluntary retirement under the scheme and shall remain in operation as per the dates mentioned below:

- (a) Date of start of option : 04.11.2019
- (b) Date of closing of option : 03.12.2019 upto 5.30 p.m.

7. Procedure

(I) Eligible employee(s) shall be required to submit option to voluntarily retire from service under the scheme during the period prescribed and as per the provisions of the scheme.

(ii) The VRS option of employee(s) facing Departmental/Judicial proceedings shall be accepted and Earned Leave encashment, Transfer grant, GPG/CPF and pension will be released provisionally as per Rule 69 of CCS Pension Rules 1972.

Provided that the payment of Ex-gratia and Gratuity, shall be released only on the conclusion of and based on the outcome of vigilance/disciplinary proceedings.

(iii) The option once exercised under this Scheme shall be final and decision of the competent authority shall be binding on the concerned employee(s).

Provided that the employee(s) will be allowed to withdraw the option only once at any time till the closing time and date of option.

Provided further that the request for withdrawal of option shall be submitted online along with signed copy in writing.

(iv) The authority for acceptance of option under this scheme shall be the competent authority as defined in clause 3(c)."

3. It is not in dispute that all the petitioners had opted for voluntary retirement by exercising option in the appropriate form within the date of closing of the scheme, i.e., December 3, 2019 up to 5.30 p.m. However, they sought to withdraw such option either on December 4, 2019 or on subsequent dates which was not allowed.

4. The Central Administrative Tribunal, Mumbai Bench (hereinafter "the Tribunal" for short), which was approached by the petitioners, held that since the petitioners did not withdraw the options by the date of closing of option, their options were final and therefore, the authorities of BSNL did not commit any illegality in retiring them voluntarily. Dismissal of the original applications by the Tribunal by orders dated February 4, 2020 are under challenge in these three writ petitions.

5. We have heard learned advocate appearing for the petitioners. We have also considered the averments in these writ petitions as well as the findings recorded by the Tribunal.

6. It appears that placing reliance on the decisions of the Supreme Court in **State Bank of Patiala vs. Romesh Chander Kanoji**, reported in (2004) 2 SCC 651, and **Madhya Pradesh State Road Transport Corporation vs. Manoj Kumar & Anr.**,

reported in (2016) 9 SCC 375, and the decision of the Principal Bench of the Tribunal in **Sunder Pal & Anr. vs. Bharat Sanchar Nigam Ltd. (BSNL) and Ors.**, the Tribunal was of the view that the point urged by the petitioners was no longer *res integra*, and accordingly it dismissed the original applications.

7. We do not find any infirmity in the findings recorded by the Tribunal. In terms of the scheme, it was open to the petitioners to withdraw the options exercised by them before the scheme closed. Having not so withdrawn, they allowed the options to become final. Law is well settled that once the option becomes final, withdrawal thereof cannot be permitted.

8. These writ petitions are devoid of merit and are, accordingly, dismissed. No costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)