



WP.No.23644 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 28.08.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

WP.No.23644 of 2011

MP.No.1 of 2011

1.The General Manager,
Food Corporation of India,
Regional Office,
5/54, Greams Road,
Chennai-600 006.

2.The Managing Director,
Food Corporation of India,
16-20, Barakhamba Lane,
New Delhi-110 001.

3.The Executive Director (South)
Food Corporation of India,
Zonal Office,
3, Haddows Road,
Chennai-600 006.

...Petitioners

Vs.

1.The Presiding Officer,
Central Government Industrial,
Tribunal-cum-Labour Court,
Shastri Bhavan,
Chennai-6.

Page No.1/10



WP.No.23644 of 2011

2.K.V.Ananthanarayanan

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...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records from the file of the 1st respondent herein, the Presiding Officer, Industrial Tribunal, Shastri Bhavan, Chennai-6, and quash the award dated 30.09.2010 in I.D.No.3 of 2009.

For Petitioners : Mr. M.Imthias

For Respondents : R1 - Court
R2 - Mr.P.Kabilan
for M/s. Thomas T.Jacob.

ORDER

Writ Petition is filed challenging the Award passed by the Labour Court in I.D.No.3 of 2009 vide order dated 30.09.2010.

2. The Food Corporation of India with the permission of the Ministry of Consumer Affairs, Food and Public Administration introduced a Voluntary Retirement Scheme for its officers and officials. A Head Quarters Circular dated 29.06.2004 was issued for the said purpose. Under

Page No.2/10



WP.No.23644 of 2011

Clause IV (2) of the circular for VRS, it was stated that a regular/permanent employee may seek Voluntary Retirement by giving notice in writing to the competent authority within the prescribed time limit. In the proforma attached to the circular the options to be exercised for notice pay were given. The Food Corporation of India vide clarification dated 02.08.2004 issued a clarification on notice pay.

3. It appears that the respondents (50 persons) opted for voluntary retirement scheme on 01.07.2004, which was accepted by the Food Corporation of India, on 19.07.2004. Some of the respondents were relieved from service with effect from 02.08.2004 and some others on various dates. As the Food Corporation of India declined to pay the notice pay for the unexpired period of notice the respondents raised the dispute before the Industrial Tribunal cum Labour Court in I.D.No.3 of 2009.

4. It was the case of the Food Corporation of India that as the respondents failed to give in writing their options on notice while opting



WP.No.23644 of 2011

for Voluntary Retirement Scheme (VRS), the respondents were not entitled to notice pay for unexpired period of notice.

5. The respondents on the other hand contended that the proforma application for VRS contains a column on notice. As far as notice pay is concerned, column 7 of the proforma gives two options as the respondents opted for the first option they were entitled to notice pay for the unexpired period of notice. It was their further case that no separate notice in writing was necessary, as the proforma itself provided for exercising the option regarding notice.

6. The Labour Court on consideration of the rival submissions and the materials on record allowed the claim petition, holding that the respondents were entitled to payment for unexpired period of notice.

7. The short point for consideration is whether the respondents are entitled to notice pay for the unexpired period of notice while opting for



WP.No.23644 of 2011

Voluntary Retirement Scheme.

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8. The learned counsel for the petitioners/ Food Corporation submitted that as per Clause III of the Scheme, the respondents were bound to give in writing their option on notice. As the respondents failed to give in writing, the petitioner was not bound to pay for the unexpired period of notice to the respondents.

9. The learned counsel for the second respondent on the other hand submitted that, as the proforma application forms a part of the circular for VRS and one of the columns refers to the option to be exercised by the respondents as far as notice is concerned, there was no need to send any separate written communication for exercising the option.

10. I have heard both the learned counsels and I have perused the materials placed on record.



11. In the Circular for VRS dated 29.06.2004, Clause IV reads as follows:

“IV Eligibility:-

- 1. The permanent employees of the corporation as referred to above.*
- 2. A regular/ permanent employee may seek voluntary retirement scheme by giving 3 months notice in writing to the competent authority within the prescribed time limit. However, the competent authority may make the payment of notice period of 3 months or for the remaining period of notice period and may accept the request for voluntary retirement from the any date before the date of expiry of notice period.”*

The procedure given for making an application is given in the Circular.

The relevant clause is Clause A which is as follows:

PROCEDURE:

(a) A eligible employee may submit an application for Voluntary Retirement under this scheme to the competent authority through proper channel in the prescribed proforma (enclosed).”

Therefore it is clear that the application for VRS was to be submitted as per the proforma prescribed in that behalf to the competent authority and



WP.No.23644 of 2011

through proper channel. It is relevant to note here that Clause 7 of the proforma gives two options which are as follows:

“7. I agree to receive three months notice pay (Pay + D4) in lieu of the notice period. I may be relieved of the services immediately or I hereby give three months notice for Voluntary Retirement. I may be relieved of the services on expiry of the notice period.”

12. Option one, relates to receipt of three months pay in lieu of notice whereunder the optee is relieved from services immediately. The other option is giving three months notice for VRS whereunder on the expiry of notice period of three months the optee is relieved. It is undisputed that all the 50 respondents opted for the first option of being relieved from services immediately, agreeing to receive notice pay in lieu of notice period.

13. As VRS was to be applied in the prescribed proforma as per Clause A of the circular and as the petitioner admitted that all the respondents submitted the proforma. I find no justification in the submission of the petitioner's that, a separate communication exercising



WP.No.23644 of 2011

the option for notice pay had to be given by the respondents. As the respondents opted for the 1st option, in my view they are entitled to the Notice Pay for unexpired period of notice.

14. I therefore find no infirmity or impropriety in the Award of the Labour Court and therefore the same is confirmed. I therefore find that the respondents are entitled to notice pay for the unexpired period of notice.

In the result, this Writ Petition is dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

28.08.2023

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation:Yes/No



WP.No.23644 of 2011

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WP.No.23644 of 2011

N.MALA, J.

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WP.No.23644 of 2011

28.08.2023

Page No.10/10