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W.A.No.1936 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.A.No.1936 of 2024 and C.M.P.No.13894 of 2024

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.

... Appellants

Vs.

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

2.K.V.Ananthanarayanan

... Respondents



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PRAYER: Appeal is filed under Clause 15 of the Letters Patent Act, praying to set aside the order of the learned Judge dated 28.08.2023 in W.P.No.23644 of 2011 as illegal, arbitrary and contrary to law.

For Appellants : Mr.M.Imthias
For Respondents : R1-Labour Court
Mr.S.Alagammai for R2

JUDGMENT

(Judgment of this Court was delivered by M.S.RAMESH.J)

In exercise of the power under Section 10 of the Industrial Disputes Act, 1947, the Government had made the following reference to the Tribunal for adjudication:

"Whether the demand of the claimants (as per list enclosed), who retired under Voluntary Retirement Scheme launched by the Food Corporation of India (Chennai), for payment of notice pay as per scheme is legal and justified? To what relief are they entitled?"

2.The claim petition has been filed by the second respondent herein, on his own behalf, as well as on behalf of 49 other similarly placed applicants, who have authorised him to make their claim on their behalf also.

3.The applicants had filed their Claim Petitions before the Tribunal



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seeking for three months notice pay under the VRS (Voluntary Retirement Scheme). The Tribunal had answered the reference in the affirmative, through its Award dated 30.09.2010, which came to be challenged by the Corporation (F.C.I.) before the learned Single Judge of this Court in W.P. No.23644 of 2011.

4.Before the learned Single Judge, the Corporation (F.C.I.) had taken a specific stand that when the scheme of Voluntary Retirement stipulates three months prior notice to be given for VRS, all the 50 persons would not be entitled for the notice pay since they had not given prior three months notice for retiring voluntarily. Learned Single Judge had placed reliance on Clause 7 of the Voluntary Retirement Scheme Application in which, an option has been given to the workman as to whether they intend to get relieved immediately or in the alternative, they would want to give three months notice period.

5.In view of the first portion of Clause 7, the learned Single Judge had come to the conclusion that a separate prior written notice is not required for opting to the scheme and accordingly, had declined to interfere



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with the award of the Labour Court.

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6.Clause 7 of the VRS floated by F.C.I., which contains two parts, reads as follows:

'7.I agree to receive three months notice pay (Pay + DA) 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'

7.The aforesaid clause is self explanatory. In the sense that when an applicant chooses to say 'yes' or 'immediate' to the first part of Clause 7, they would mean that the applicant intended to receive three months notice pay in lieu of the notice period.

8.On this aspect, the learned Single Judge had held that all the employees, who had opted for first part of Clause 7, need not give a prior separate written request for opting to the scheme.

9.In our considered opinion, the learned Single Judge has rightly come to the conclusion that all the applicants would be entitled for notice



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pay for the un-expired portion of the notice period.

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10.At this juncture, the learned Standing Counsel for the Corporation would submit that out of the 50 applicants, some of them were relieved at a later stage in view of the option exercised by them in Clause 7 of their respective applications.

11.We find from the records that the date on which the application was made, the option exercised by the applicants and the date of relieving have been spelt out in a tabular statement, which has been marked as Ex.M1 before the Tribunal.

12.In line with the findings of the learned Single Judge, all the applicants, who are involved in the present dispute, would be entitled for the notice pay for the unexpired period of notice as found in Ex.M1. In other words, all the applicants would be entitled for notice pay of three

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and
M.JOTHIRAMAN, J.



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months, after deducting the period between the date of application till the date of relieving.

13. With the above clarification, no interference is required to the Award, as well as the order of the learned Single Judge. Accordingly, this Writ Appeal stands closed. No Costs. Consequently, connected miscellaneous petition is closed.

[M.S.R., J] [M.J.R., J]

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Index : Yes/No

Neutral Citation : Yes/No

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To

The Presiding Officer,
Central Government Industrial,
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