

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-27160-2016 (O&M)

Date of decision: 03.05.2024

HMT KARMIK SANGH R & R, EMPLOYEES UNION, HMT LIMITED
PINJORE, DISTRICT PANCHKULA & ANOTHER

....PETITIONERS

Vs.

UNION OF INDIA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ishaan Bhardwaj, Advocate
for the petitioners.

Ms. Geeta Singhwal, Senior Panel Counsel
for the respondent No.1-UOI.

Mr. Lalit Thakur, Advocate and
Mr. Utkarsh Khataua, Advocate
for respondent Nos. 2 to 4.

Mr. Yogesh Putney, Advocate
for respondent No. 5.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of Voluntary Retirement Scheme (for short 'VRS') dated 04.11.2016 (Annexure P-6). They are further seeking direction to respondents to count training period of two years as part of service while calculating service period for VRS benefits.

2. The petitioners are Employees Union/Association. The members of the Union/Association were working with Tractor Division of HMT Limited. On account of dilapidated financial condition, the Government of India decided to close down Tractor Operation of aforesaid Company. It is apt to mention here

that HMT Limited is a Public Sector Undertaking. In the process of closure of manufacturing unit, the Government introduced Voluntary Retirement Scheme dated 04.11.2016. In the said scheme, employees were extended two options i.e. (i) to accept compensation as per jotted down formula or (ii) would be paid compensation under Industrial Disputes Act, 1947.

3. Mr. Ishaan Bhardwaj, Advocate contends that VRS was arbitrary and discriminatory in nature. Thus, it was violative of Article 14 of the Constitution of India. The scheme has discriminated similarly situated employees. An employee who has completed 29 years of service is getting altogether different amount than an employee who has completed 30 years of service. It amounts to discrimination between two similarly situated employees. The respondent has further included training period of those employees, who were getting Basic Pay, DA, HRA and CCA during the said period. The training period of those employees who were getting lump sum amount has not been reckoned for VRS/VSS *ex-gratia*. Training means training. The respondent could not discriminate between two employees who had got similar training, however, were getting emoluments in a different manner.

4. Per contra, Mr. Lalit Thakur, and Mr. Utkarsh Khataua, counsels for respondent Nos. 2 to 4 submit that respondent was a Public Limited Company and it could close down its manufacturing unit without framing VRS. The respondent, as per Industrial Disputes Act, was liable to pay 3 months' salary. There was no need to pay compensation as contemplated by impugned scheme. The respondent with intent to help its employees, had introduced the said scheme. The members of Union/Association, during the pendency of present petition, have accepted compensation as contemplated by impugned policy. The respondent-Company has cleared all the dues of members of the petitioners Union/Association, thus, no cause survives.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. The petitioners are assailing Voluntarily Retirement Scheme dated 04.11.2016 implemented by the respondent-Company. The scheme was introduced by respondent which is a Public Sector Undertaking. The decision to close down Tractor Division of the Company was taken by Government of India. The respondent could close down its manufacturing unit in terms of different provisions of Industrial Disputes Act and in that situation it was liable to pay compensation as per said Act. However, considering the interest of employees, the respondent has introduced the said scheme. The petitioners are Union/Association of employees. Every employee has independent cause of action but petition has been filed by association and all the members of the association have not approached this Court. Majority of members without any demur had accepted compensation under VRS. Few members through their Union/Association have filed present petition.

7. A policy framed by State can be doubted only in terms of parameters laid down by Supreme Court in plethora of judgments. The policy in question is more or less a financial/compensatory policy. The petitioners are assailing said policy primarily on the ground that there is discrimination between two employees on the ground of length of service. The respondent was bound to make policy considering length of service of employees. It was bound to categorize employees. If an employee has completed 20 years of service, he cannot be compared with another employee who has completed 30 years of service. Merely the fact that respondent has divided employees on the basis of 30 years of service, it cannot be held that there was discrimination between two employees. The dividing period either 20 years or 30 years was bound to treat the employees differently i.e. who fall prior to cut off point and after the cut off

point. It is contemplated in every economic policy e.g., under the Income Tax Act, there are Tax Slabs and a man who crosses one slab even by few rupees has to pay differently. Similarly, under the repealed Central Excise Act, there was exemption scheme for Small Scale Industries. There was a cut off limit and a person crossing the limit was liable to pay Excise Duty on the entire sale. In the case in hand, the respondent, as per its wisdom has drawn the line of 30 years. The employees who have completed 30 years of service have been classified in one category and who have not completed 30 years of service, have been classified in another category.

8. It is a settled proposition of law that Courts are not supposed to substitute opinion of legislature in policy matters. The authorities know better about the problems and their solutions. The Courts can interfere if there is violation of Fundamental Rights or statutory provisions or the policy is patently or manifestly arbitrary.

9. In the case in hand, this Court does not find that impugned policy is in violation of any fundamental right of the petitioners guaranteed by Constitution of India or any statutory provision. The Court further does not find that there is patent or manifest arbitrariness in the said policy.

10. The petitioners are further claiming that training period of employees who had drawn emoluments has been reckoned for computation of compensation under VRS whereas training period of those who were getting lump sum has not been reckoned. The respondent at the time of induction, had classified trainees in two categories i.e. trainees who were getting emoluments and who were getting lump sum amount. The petitioners, at the stage of induction did not object to the different mode and manner of payment than others who were getting emoluments i.e. Basic Pay, DA and HRA. The members of the Union/Association by their act and conduct admitted their status as

separate set of trainees. They form a separate category of trainees. At this belated stage, they are trying to claim that they are at par with those trainees who were getting Basic Pay, DA, HRA etc. It is apt to notice here that during the pendency of present petition, all the members of the Union/Association have already accepted offered amount and respondent has cleared their outstanding dues. Thus, at this stage, any order tinkering the impugned scheme would complicate the settled issued. The unit of respondent has already closed.

11. Mr. Ishaan Bhardwaj, with respect to deduction of Income Tax, on instructions, submits that Income Tax Authorities have already refunded deducted amount. In the wake of statement made by Mr. Ishaan Bhardwaj, no order with respect to deduction of TDS is warranted.

12. The petition being bereft of merit deserves to be dismissed and accordingly dismissed.

13. Pending miscellaneous application(s), if any, shall also stand disposed of.

03.05.2024
manoj

[JAGMOHAN BANSAL]

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No