

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.103

1. **LPA-1025-2022 (O&M)**

Ram Kumar and othersAppellants

Versus

Union of India and othersRespondents

2. **LPA-1026-2022 (O&M)**

Dewan Chand and othersAppellants

Versus

Union of India and othersRespondents

3. **LPA-1027-2022 (O&M)**

Rambir Panchal and othersAppellants

Versus

Union of India and othersRespondents

Date of decision: 09.01.2024

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Nikhil Goyal, Advocate and
Mr. Rana Gurtej Singh, Advocate
Mr. Mukul Panpher, Advocate
for the appellant(s) in LPAs-1025 & 1027-2022.

Mr. Amit Kashyap, Advocate
for the appellants in LPA-1026-2022.

Mr. Arun Gosain, Senior Govt. Counsel
for the respondent-UIO.

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DEEPAK SIBAL, J. (Oral)

1. Three intra court appeals which originate from a common judgment dated 08.08.2022 passed by a learned Single Judge of this Court are being disposed of through a common order.

2. Briefly stated, the facts are that Hindustan Machine Tools Limited (for short – HMT), which is a Central Public Sector Enterprise, was having a tractor division at Pinjore (hereinafter referred to as the tractor division). Due to repeated losses, HMT decided to close down its tractor division. At the time of such decision, the employees of the tractor division were given the option by HMT either to opt for the Voluntary Retirement Scheme (for short – VRS) or as a consequence of not exercising the option, accept retrenchment compensation in terms of the Section 25(O) of the Industrial Disputes Act, 1947 (for short – the Act). The last date to opt for the VRS was 05.12.2016 which was extended to 05.01.2017.

3. In the meanwhile, two writ petitions by the employees of the tractor division were filed before this Court being CWP-25068-2016 – Dewan Chand and others vs. Union of India and others and CWP-27483-2016 – Rambir Panchal and others vs. Union of India and others. Later, another petition was also filed by the employees on 28.02.2017 being CWP-3828-2017 – Ram Kumar and others vs. Union of India and others. The challenge made in these petitions was to the action of the respondents to close down the tractor division. In the alternative, the reasonableness of the VRS Scheme was questioned with a further prayer that in case this Court came to a conclusion that the closure of the tractor division was legal, HMT/Union of India be directed to absorb the retrenched employees in

other units of HMT/any other Public Sector Undertaking.

4. All the aforesaid three petitions, alongwith another similar petition being CWP-3947-2017 – Rajpal and others vs. Union of India and others, were dismissed by a learned Single Judge as he was of the opinion that the decision to close down the tractor division was a just and legal decision. He further held that since HMT was running into losses and its tractor divisions were already over-staffed, the retrenched employees could not be ordered to be absorbed in other units. The learned Single Judge further held that the employees/petitioners therein were estopped from raising a challenge to the reasonableness of the VRS as they had not even opted for the Scheme. Rather, they had, without any protest, accepted and then used the retrenchment compensation. The common judgment of the learned Single Judge in the subject matter of challenge in the present intra court appeals.

5. The only issue raised before us by the learned counsel for the appellants is that before the learned Single Judge, at the time of final disposal of their petitions, the appellants had sought permission to opt for the VRS which was erroneously declined. In this regard reliance is placed on an interim order dated 05.12.2016 passed in CWP-25068-2016 – Dewan Chand and others vs. Union of India and others through which directions had been issued that exercising of the option for the VRS by the petitioners therein (some of the appellants) would be subject to the final outcome of their writ petition. Therefore, according to the learned counsel for the appellants, the learned Single Judge, at the time of final disposal of the appellants' petitions, should have granted an option to the appellants to opt

for the VRS.

6. We cannot accept the afore contention.

7. Way back in the year 2016 HMT took a decision to shut down its tractor division. At that time the employees, who as a result of such closure would have been retrenched, were given an option to be compensated through a VRS. If they did not opt for the VRS they were to be paid retrenchment compensation. The employees were to opt for the VRS by 05.01.2017. Admittedly, the appellants never opted for the VRS. Since they did not do so, in January 2018, retrenchment compensation was paid to them which they accepted without any protest. Each of the appellants have also used such amount. That being so, after about 06 years of having accepted the retrenchment compensation and that too without any protest as also having used the same, at this stage, the appellants would be estopped from making a claim to opt for the VRS.

8. Reliance of the appellants on the interim order of this Court dated 05.12.2016 passed in CWP-25068-2016 is misconceived. The said order reads as under:-

“Notice of motion for 18.3.2017.

The concerned respondent is directed to file an affidavit as to why the salary has not been paid to the petitioners from July, 2014 till date.

Learned counsel for the petitioners submitted that there is a time bound policy relating to exercise of option of VRS and deadline is on 5.1.2017. Such exercising option is subject to result of this litigation.”

9. In the aforesaid petition one of the main issues that had been

raised was to the challenge to the decision taken by HMT to close its tractor division. In the alternate challenge was made to the reasonableness of the VRS. The last date to opt for the VRS was 05.01.2017. In the meanwhile, the petitioners/appellants had filed their petition which had come up for hearing before this Court on 05.12.2016. By that time they could have still opted for the VRS but if they would have done so, such action on their part could have worked to their prejudice is their challenge to the decision by HMT to shut down its tractor division. It is in these circumstances that the learned Single Judge passed the afore-quoted interim order to the effect that even if the petitioners/appellants exercise their option for the VRS the same would abide by the final orders to be passed in their petitions. Thus, the interpretation sought to be given by the appellants to the afore-quoted order is wholly misconceived.

10. Even otherwise, after the afore-quoted interim order, none of the appellants opted for the VRS and therefore, cannot derive any benefit of the same.

11. In view of the above discussion, all the aforesaid three intra court appeals are dismissed.

12. No costs.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

January 09, 2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No