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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: 12th February, 2025
Date of Decision: 28th February, 2025

+ LPA 251/2022 & CM APPL. 17494/2022, CM APPL. 17496/2022

SHRI ANAND KUMAR RAKESHAppellant
Through: Mr. Rakesh Talukdar, Mr. Ashray Chopra, Mr. Ashutosh Singh, Mr. Aviral Bansal, Mr. Udit Bansal and Ms. Shivi Dwivedi, Advs.

versus

UNITED INDIA INSURANCE COMPANY LIMITED & ORS.Respondents
Through: Mr. Amit Kumar Singh, Ms. K Enatoli Sema, Mr. Prang Newmai and Ms. Chubalemla Chang, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

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AJAY DIGPAUL, J.

1. The present Letters Patent Appeal has been filed under Clause X of the Letters Patent of the High Court of Delhi, challenging the order dated 05.08.2021, passed in W.P.(C) 7781/2021, whereby the learned Single Judge dismissed the writ petition and upheld the order



passed by the respondent corporation, which accepted the appellant's application for voluntary separation.

2. To appreciate the present controversy, it is necessary to outline the facts of the case. The appellant was employed with the respondent corporation from the year 1989 and held the position of Deputy Manager, Scale-III. According to a promotion order dated 06.09.2016, the appellant was promoted to the position of Manager (Scale-IV). However, the appellant did not assume charge at the designated place of posting in Bhopal. Subsequently, on 19.09.2016, the appellant, vide email, submitted a grievance to the respondent corporation, asserting therein his inability to accept the promotion offer on account of the allegedly arbitrary transfer of his posting to Bhopal.

3. The refusal to accept the promotion was duly recorded by the respondent corporation in an order dated 20.04.2017, which records thus:

“Re: Promotion Refusal- P.E. 2016-17 within Class I Officers (Upto Scale V)”

Reference is invited to our Circular No. 48 dated 27.04.2016 declaring vacancies for promotion to the Cadre upto Scale-V and circulars dated 29.07.2016 declaring the final selection list of Officers for promotion to the Cadres of II, III, IV & V (both under Normal Channel and Fast Track Channel) under the Promotion Exercise 2016-17. We also refer subsequent Promotion Orders issued to the Promotee Officers both under Main List and Contingency List till March 2017.

The following is list of Officers who have refused the offer of promotion under the Promotion Exercise 2016-17.

REFUSAL OF PROMOTION TO THE CADRE OF CHIEF MANAGER (SCALE V)



Sl. No.	Emp. No.	Name of the Officer (S/Shri/Ms.)	Present Office	Region
1	25479	T. Wilson	DO 3 Hyderabad	Hyderabad

**REFUSAL OF PROMOTION TO THE CADRE OF MANAGER
(SCALE IV)**

Sl. No.	Emp. No.	Name of the Officer (S/Shri/Ms.)	Present Office	Region
1	27022	Anand Kumar Rakesh	RO 1 New Delhi	RO 1- Delhi
2	25481	A. Chakrabarti	DO23 Devika Towers	RO 1-Delhi

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As per Para-21 of the Promotion Policy for Officers 2006 and further amendments, such refusals shall be taken into account when considering their case for promotion for subsequent one Promotion Exercise.”

4. Thereafter, the respondent corporation issued another promotion order dated 03.08.2018 to the post of Manager (Scale IV) with a posting at Chandigarh. The appellant again declined to accept this transfer. Consequently, an order dated 26.04.2019 was passed by the respondent corporation, recording the appellant's second refusal, which reads thus:

Re: Promotion Refusals- P.E. 2018-19 within Class I Officers (Upto Scale V)

Reference is invited to our Circular No. 42 dated 19.04.2018 declaring vacancies for promotion to the Cadre upto Scale-V and circulars dated 25.06.2018 declaring the final selection list of Officers for promotion to the Cadre of Scale V (both under Normal Channel and Fast Track Channel) and circulars dated 03.08.2018 declaring the final selection list of Officers for promotion to the Cadres of Scales II, III, IV (both under Normal Channel and Fast Track Channel) under the Promotion Exercise 2018-19. We also refer subsequent Promotion Orders issued to the



Promotee Officers both under Main List and Contingency List.

The following is the list of Officers who have refused the offer of promotion under the Promotion Exercise 2018-19.

REFUSAL OF PROMOTION TO THE CADRE OF CHIEF MANAGER (SCALE-V) UNDER NORMAL CHANNEL.

<i>Sl. No.</i>	<i>Emp. No.</i>	<i>Name of the Officer (Shri/Ms.)</i>	<i>Present Office</i>	<i>Region</i>
<i>1</i>	<i>20514</i>	<i>Dayal Sharan Avasthi</i>	<i>DO 3 Kanpur</i>	<i>RO Lucknow</i>

REFUSAL OF PROMOTION TO THE CADRE OF MANAGER (SCALE IV) UNDER NORMAL CHANNEL.

<i>Sl. No.</i>	<i>Emp. No.</i>	<i>Name of the Officer (S/Shri/Ms.)</i>	<i>Present Office</i>	<i>Region</i>
<i>1.</i>	<i>27022</i>	<i>Anand Kumar Rakesh</i>	<i>RO 1 Delhi</i>	<i>RO 1 Delhi</i>
<i>2.</i>	<i>22539</i>	<i>Praddep K Chhabra</i>	<i>Service Hub, RO Chandigarh</i>	<i>RO Chandigarh</i>
<i>3.</i>	<i>21536</i>	<i>Amar Nath</i>	<i>BO Naraina</i>	<i>RO 2 Delhi</i>

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As per Para-21 of the Promotion Policy for Officers 2006 and further amendments, such refusals shall be taken into account when considering their case for promotion for subsequent one Promotion Exercise.”

5. It is relevant to note that a ‘Promotion Policy for Officers’ was initially formulated by the respondent corporation, which governed the promotional avenues for its officers. However, this policy was superseded by the ‘Promotion Policy for Officers-2006’ (‘the 2006 Policy’).

6. The respondent corporation had introduced a scheme titled General Insurance (Public Sector) Officer’s Golden Gate Scheme for



Voluntary Separation, 2009¹, which applied to officers up to Scale VI. The scheme outlines the rationale and objectives underlying its introduction and set forth the provisions governing its implementation. The purpose of the Scheme, along with the relevant clauses pertaining to eligibility criteria and general conditions, are extracted hereunder:

“1. Introduction and Preamble-

Para 17 of the Promotion Policy for Officers-2006 provide for officers superseded in promotion in 3 consecutive promotion exercises to be excluded from the zone of consideration for two immediately succeeding promotional exercises. In addition, for officers in Scale VII cadre also, in terms of the Guidelines for Appointment of Chief Executives of Public Sector Insurance Companies, as approved by the Department of Personnel and Training, Government of India, not more than 3 chances are available for inclusion in the zone of consideration and appearing in the interview for selection to the post CMD, if otherwise eligible.

In May, 2006 when the 1st Approach Paper for initiating debate on evolving the Promotion Policy for Officers-2006 was floated, and the idea leading to para 17 as aforesaid, was expressed, it was also indicated therein that the basic purpose of the said paragraph is to introduce the element of continuous shuffling of the manpower before subjecting it to the process of sieve for the purpose of selecting the best available manpower for undertaking the higher responsibilities. It was understood that once the person is sieved out and rested for two exercises, an opportunity would be made available to him to have self-assessment also including an introspection with the view to decide if, having regard to his potential, capabilities, strengths and weaknesses, ambitions, personal and family obligations, health conditions, aptitude, enthusiasm. The changed scenario at the workplace, technological advancements etc., in his own opinion, he feels, he should seek an honorable exit from the Company with or without the option of an alternative employment elsewhere. To cater the need of those officers who find the answer to this poser in the alternative, it was envisaged to construct a ‘Golden Gate’ to enable such officers to opt for an honorable exit from the Company. In other words, the Golden Gate seeks to provide a Voluntary Separation Scheme for specified class of officers in the mutual interests of these officers, the other officers and the Company itself, in the long run.



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“4. Eligibility.-

- (a) *All permanent full-time officers up to Scale VI will be eligible to seek Voluntary Separation under this Scheme provided they have attained the age of 50 years, are facing or have faced exclusion from the zone of consideration for promotion to the next higher cadre as a result of operation of para 17 of the Promotion Policy for Officers-2006 and opt for availing of the Scheme. It shall also apply to Scale VII officers, who have completed 50 years of age, have been empanelled on 3 occasions for being interviewed (irrespective of whether they have attended it or not) for selection to the post of CMD, and opt for availing of the Scheme.*

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8. General Conditions.-

- i. *An Officer opting for Voluntary Separation under this Scheme shall make an application as per Appendix A, in triplicate through a proper channel addressed to the Competent Authority.*

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- iv. *Mere submission of application by an officer seeking Voluntary Separation under this Scheme shall not be construed to mean such Separation having taken effect until and unless the Competent Authority accepts in writing.*

- v. *An officer shall not be eligible to withdraw his or her application for Voluntary Separation under this Scheme after acceptance of the same by the Competent Authority.*

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7. By way of a notice dated 20.03.2019, the respondent corporation amended the eligibility criteria under the Scheme, extending its applicability to officers up to Scale-IV who had been superseded in three consecutive promotional exercises. Subsequently, on 24.07.2019, another notification was issued by the respondent corporation declaring that the Scheme would remain in force only until 31.10.2019, beyond which it would be withdrawn *sine die*.



8. Thereafter, through a notice dated 28.10.2019, the respondent corporation directed that the applications under the Scheme must be submitted on or before 31.10.2019.

9. In the interregnum, on 31.10.2019, the appellant voluntarily submitted his application for voluntary separation by availing the Scheme of the respondent corporation. At the time of availing the Scheme, the appellant tendered the following undertaking in the form of Appendix-A:

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Sub: Voluntary Separation

I hereby offer to seek Voluntary Separation from the services of the Company in accordance with the "General Insurance (Public Sector) Officer's Golden Gate Scheme for Voluntary Separation, 2009" as approved by the Board of the Company.

I have carefully read and understood the contents of the Scheme and I accept the terms and conditions stipulated therein, unconditionally.

I furnish the requisite particulars in the Annexure enclosed for consideration of my offer to seek Voluntary Separation from the services of the Company under the above Scheme.

I hereby agree to vacate the Company owned residential accommodation/leased accommodation within two months from the date of my relieving from the Company's services.

I hereby authorize the Company to recover and adjust all loans/dues etc. from my terminal benefits including ex-gratia.

10. The respondent corporation, after due consideration, accepted the appellant's application for voluntary separation under the Scheme on 27.11.2019, thereby terminating the appellant's services with effect from 29.11.2019. The same was communicated to the appellant via



email on 27.11.2019. The letter dated 27.11.2019 is reproduced as under:

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“RE: GOLDEN GATE SCHEME FOR VOLUNTARY SEPARATION OF OFFICERS SH. RAKESH KUMAR ANAND, DY. MANAGER, EMP. NO. 27022, DRO-1”

We refer to your application dated 31.10.2019 seeking exit under the above scheme. The Competent Authority has accepted the application for exit under the above scheme.

Accordingly, you stand relieved from the services of the company at the close of the office hours on 29.11.2019.”

11. The appellant, through emails dated 29.11.2019, 06.12.2019 and 09.12.2019, objected to the acceptance of his application and sought to challenge the termination of his services under the Scheme. The E-mail dated 29.11.2019 sent by the appellant is reproduced herein:

“ DEAR SIR/MADAM,

AT THE OUTSET I HAVE TO SUBMIT THAT:-

1 I AM TO AGAIN BRING ON RECORD THAT I HAVE WRITTEN NO LESS THAT 132+ MAILS AGAINST STEP MOTHERLY TREATMENT METED OUT TO ME OVER PERIOD OF TIME, WHICH IS ON YOUR RECORD WITH YOUR GOODSELVES VIA EMAIL, SMSs ETC.;

2 INSPITE OF THE MALAFIDE EFFORTS MADE BY SOME VESTED INTERESTS IN THE ORGANIZATION, THE UNDERSIGNED THROUGH HIS SHEER GRIT & DETERMINATION WAS ABLE TO CLEAR THE EXAMINATIONS AND GOT THE PROMOTION DUE TO HIM;

3 DESPITE HAVING CLEARED THE EXAMINATIONS, TO THE UTTER DISPLEASURE OF THE VESTED INTEREST IN THE ORGANIZATION AND WITH INTENT TO VENT THEIR ANGER AGAINST THE UNDERSIGNED, THIS GROUP MANAGED TO GET THE UNDERSIGNED POSTED OUT OF DELHI IN 1916, AS AGAINST PEER GROUP BATCHMATES &



DESPITE NOT BEING COVERED IN THE POLICY "ACCORDINGLY INNUMERABLE NUMBER OF REPRESENTATIONS/ESCALATIONS WERE MADE WHICH ARE ON RECORD WITH YOU". SINCE NO WRITTEN COMMUNICATION HAS BEEN RECEIVED REBUTTING MY REQUEST SUBMISSIONS FOR NOT POSTING ME OUT & DULY RETAINING ME OF DELHI, IT IS BETTER PRESUMED THAT THEY ARE STILL UNDER CONSIDERATION @ PUC;

4 THE VESTED INTERESTS IN THE ORGANIZATION HAVE DELIBERATELY CONSIDERED MY REQUESTS FOR RE-CONSIDERATION OF POSTING OUTSIDE DELHI AS REFUSAL TO PROMOTION, WHICH HAVE BEEN DULY COUNTERED BY ME VIDE MY LETTERS ON RECORD WITH YOUR GOODSSELVES.

5 IT HAS COME TO MY NOTICE THAT THE SMS/EMAIL SENT BY THE UNDERSIGNED THREATENING TO SEEK SVRS IN CASE MY AFOREMENTIONED REQUEST IS NOT ACCEDED TO, IS BEING CONSTRUDED/ CONSIDERED AS REQUEST FOR SEEKING SVRS. HOWEVER, THE CONTENTIONS OF THE DEPARTMENT ARE VOID ABNITIO, BECAUSE OF THE FOLLOWING REASONS-

- THE SCHEME STIPULATES AN APPROPRIATE NOTIFIED FORM TO BE FILLED IN TRIPLICATE IN WHICH SIGNATURES OF INDEPENDENT WITNESS APPENDED THEREON.**
- THE SYSTEM HAS BEEN PUT IN PLACE SO AS TO ENSURE INDEPENDENT & VOLUNTARY DISCLOSURE OF OFFICIALS/OFFICERS TO SEEK SUCH PREMATURE RETIREMENT "IS NOT UNDER COERCION"**
- IT IS EVIDENT FROM THE ABOVE FACTS THAT THE VESTED INTERESTS IN THE ORGANIZATION ARE HELL BENT UPON DISCRIMINATION AGAINST THE UNDERSIGNED AND ARE USING ALL OPPORTUNITIES TO HAMPER MY CAREER**
- AS PER MY KNOWLEDGE THE STIPULATED FORM ON EXPLICIT RECOMMENDATION Σ TO BE COVERED, CONTROLLING LOCAL OFFICE "AS STIPULATED OFFICER' AS STIPULATED UNDER THE RELEVANT SCHEME HAS NOT BEEN MADE BY THE UNDERSIGNED, IT IS LEGALLY UNTENABLE TO ASSURE THAT I HAD APPLIED FOR GOLDEN GATE**



6 *IT IS EVIDENT FROM ABOVE MENTIONED FACTS THAT UNDERSIGNED HAS BEEN COERCED & DISCRIMINATED AGAINST SPECIFICALLY WITH ULTERIOR MOTIVES.*

7 *CONTENT MISCONSTRUED AS MY APPLICATION FOR GOLDENGATE, MAY PLEASE BE CORRECTED FOR GOOD/IF REQUIRED BE TAKEN AS WITHDRAWN*

8 *IT ESTABLISHES THE DISCRIMINATORY & MALAFIDE AGAINST THE UNDERSIGNED BY VESTED INTEREST IN THE ORGANIZATION IN MARRING MY CAREER*

9 *UNDERSIGNED BELONGING TO SC COMMUNITY HAS WORKED WITH UTMOST HONESTY & DEDICATION OVER A PERIOD OF 3 DECADES IN THIS ORGANIZATION HAVE ALWAYS KEPT THE INTEGRITY AS A BONAFIDE OFFICER HIGH & HAS NEVER INSPITE OF BEING PERPETRATED WITH ACTUSREAS RAMPANT UNBUREAUCRATIC HR, PNJ WRONGS, WITH VIRTUAL CONCERTED MENSREA TARGETING ME AS A WHISTLE BLOWER HAS HAD NEVER THOUGHT OF APPROACHING THE OTHERWISE STATUTORY FORUMS AVAILABLE TO ME LIKE SCHEDULED CASTE COMMISSION, PARLIAMENTARY COMMISSION ON SCHEDULED CASTE ETC. UNDERSIGNED STILL HOLDING FAITH IN REQUISITE BENEVOLENCE/Y AT DESIRABLE LEVELS OF CORPORATE HIERARCHY, EVEN NOW TRUST I SHALL NOT BE FORCED TO RESORT TO THEM, NOW ON RECORD HUMBLY FORMALLY SUBMITTED @ ANAND KUMAR RAKESH @ 27022”*

12. The appellant challenged the acceptance of his voluntary separation application, by way of Writ Petition bearing no. 7781/2021 filed before learned Single Judge of this Court, in which the presently impugned order has been passed.

13. By the impugned judgment dated 05.08.2021, the learned Single Judge, dismissed the writ petition, holding that no grounds for interference with the impugned decision had been made out. The impugned judgment is reproduced hereunder:

Signature Not Verified

Signed By: MEENU KALRA
Signing Date: 01.03.2025
12:59:41

Page 10 of 20



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“1. This petition has been filed by the petitioner challenging the communication dated November 27, 2019 of the respondent No. 1 Company whereby the application of the petitioner dated October 31, 2019 seeking exit under the Golden Gate Scheme for Voluntary Separation of Officers was accepted.

2. Mr. I.S. Bakshi, learned counsel appearing for the petitioner would submit that a Scheme calling “Golden Gate Scheme for Voluntary Separation of Officer” was issued which contemplated that application in triplicate to be submitted to the Head office for grant of the voluntary separation. The petitioner, though had sent a communication dated October 31, 2019, had never intended to seek separation from the respondent corporation. According to him, the application, as is clear from page 71, was sent at 18.37 Hrs. beyond office hours and was not even properly receipted. He submits that the petitioner was not even fulfilling the eligibility for seeking a voluntary separation inasmuch as, it is those officers who have not got promotion for consecutively three years, who can seek the separation. He states, petitioner having got two promotions could not have sought voluntary separation.

3. On the other hand, Mr. Abhishek K. Gola, counsel appearing for the respondent has by drawing my attention to Pages 90-94 states, the application was submitted by the petitioner through his official e-mail, i.e., anandkumarrakesh@uiit.co.in and the same was submitted in the format as required by the respondent and was addressed to the CMD of the respondent No. 1 Organisation. The application itself reads that he (petitioner) has read and understood the contents of the scheme and he accepts the conditions stipulated therein unconditionally. That apart, in Annexure to Appendix-A, the petitioner gives all his particulars, including his name, date of birth, date of joining the Corporation etc. That apart, he has also filled Appendix B which is a nomination form, making his wife as his nominee.

4. In other words, the application having been submitted with open eyes and understanding of the scheme, it cannot be said by the petitioner that he never intended to submit the same. That apart, Mr. Gola has highlighted reasons that prompted the petitioner to submit the application, inasmuch as the petitioner initially got promotion to the cadre of Manager in the year 2016 with posting at Bhopal. The petitioner did not join his place of posting at Bhopal, which resulted in the cancellation of the same and the petitioner continued on the post of Deputy Manager. In this regard, he has also drawn my attention to an order dated April 20, 2017 issued by the respondent corporation under the heading



“Promotion Refusals-P.E. 2016-17 within Class-I Officers (up to Scale V), wherein the name of the petitioner features.

5. *That apart, a further promotion order was issued to the post of Manager in the year 2018 with posting order at Chandigarh, which also post of Manager in the year 2018 with posting order at Chandigarh, which also was refused by the petitioner as is clear from Page 66 of the paper-book and an order dated April 26, 2019 was issued by the respondent corporation in that regard. The submission of Mr. Gola is, the promotion/ posting of the petitioner outside Delhi was the reason prompted him to seek the voluntary separation from the Company. He states, it is more than one year since, the impugned order is passed and this Court would not like to interfere with the same.*

6. *Having heard the learned counsel for the parties, suffice to state, the submission made by Mr. Bakshi that the petitioner did not intend to submit the application for voluntary separation; the application submitted by him was not within the office hours; not in triplicate; not receipted, are not convincing as the application was submitted by him with clear understanding of the terms of the Scheme and knowing well its consequences. The reasons can be the grounds for the respondent to reject the application and not for the petitioner to set at nought the very application which was given by him seeking voluntary separation.*

7. *The plea of Mr. Bakshi that the petitioner was not even eligible for being considered for voluntary separation is untenable, when he himself stated that he had understood the conditions stipulated therein, which follows on reading of the conditions, he was clear that he fulfils the conditions. The plea that the petitioner got promotions on three occasions, as such, is not eligible and is without merit. He having refused promotions shall mean he has been superseded which is a ground for seeking voluntary cessation. Further, it is not the case of the petitioner that before the communication dated November 27, 2019, was received by him, he has expressed his intention to withdraw his application for voluntary separation, I am of the view that the petitioner has not made out any case for interference with the impugned order.*

*I do not see any merit in the petition.
The same is dismissed.”*

14. Aggrieved by the judgment dated 5 August 2021 of the learned Single Judge, the appellant is before us in appeal.



15. In light of the foregoing facts and circumstances, the following issues arise for determination before this Court:

- (i) Whether the appellant was superseded in terms of the Golden Gate Scheme for Voluntary Separation of Officers;
- (ii) Whether the subsequent withdrawal of the application for voluntary separation is legally sustainable.
- (iii) Whether the appellant's application was made in accordance with the relevant rules and in the prescribed manner.

16. The contentions advanced by the appellant are that he never intended to seek voluntary separation and that did not meet the eligibility criteria under the Scheme, as he had been recommended for promotion in 2016 and 2018 but was unable to accept the same due to transfers. It is further asserted that his application did not comply with the mandatory procedural requirements under the Scheme, thereby rendering it void *ab initio*. Additionally, the appellant submits that he had sought to withdraw the application and had no intention of submitting the same.

17. *Per contra*, the learned counsel for the respondent contended that the appellant was duly eligible under the Scheme, having refused promotions in 2016 and 2018, leading to his supersession. The appellant, part of the 2009 Deputy Managers' batch, became eligible for consideration in the last three years, with the following outcomes:

- a. Promotion Exercise 2017-18- not promoted, while juniors were promoted.



- b. Promotion Exercise 2018-19- promoted, but the appellant did not accept the promotion, and juniors were promoted.
- c. Promotion Exercise 2019-20- not promoted, with juniors promoted.

18. It is asserted that the appellant voluntarily and unconditionally applied for separation on 31.10.2019, submitting all requisite details, including a declaration confirming his acceptance of the terms of the Scheme. As per Claus IV and V of the Scheme, once an application is accepted by the competent authority, it becomes final and irrevocable, rendering the appellant's withdrawal request on 29.11.2019 legally impermissible.

19. The respondent further argues that the writ petition was filed after an inordinate delay of 614 days, and as per *Union of India v N. Murugesan*², such delay constitutes acquiescence and waiver of rights, thereby disentitling a party to equitable relief. Reliance is placed on *Secy., Technical Education, U.P. v Lalit Mohan Upadhyay*³ and *Air India Express Ltd. v Gurdarshan Kaur Sandhu*⁴, to assert that once resignation is accepted, it attains finality. The Scheme, being a binding contractual agreement, precludes the appellant from retracting his application, and no interference is warranted in the present appeal.

² (2022) 2 SCC 25

³ (2007) 4 SCC 492

⁴ (2019) 17 SCC 129



ANALYSIS

20. To adjudicate upon the Issue No. (i) (supra), it is necessary to examine the precise meaning of supersession, as contemplated under the Scheme. The term supersession assumes significance in the present case, as the eligibility of the appellant under the Scheme hinges upon whether he was superseded in the manner prescribed therein. The Explanation to the amended eligibility clause provides a clear and unequivocal definition of supersession, which is enunciated in the notice dated 20.03.2019, reproduced hereunder:

“NOTICE

Re: Golden Gate Scheme- Review of Eligibility Criteria for Officers upto Scale IV

The General Insurance (Public Sector) Officers' Golden Gate Scheme for Voluntary Separation, 2009 has been approved by the Board of our Company and implemented vide our circular Ref:HO:PER:Cir:58, 1st December, 2009.

Clause (a) of paragraph 4 (Eligibility) of the General Insurance (Public Sector) Officers' Golden Gate Scheme for Voluntary Separation, 2009 on eligibility criteria for opting voluntary separation from the services of the Company prescribes that Officers who have attained the age of 50 years and have been excluded from the ZoC due to operation of Para 17 of the Promotion Policy can avail this Scheme. However, due to scrapping of Written Test under Normal Channel from PE 2019-20 vide 11 Amendment to the Promotion Policy for Officers 2006, Para 17 of the said Policy ceased to be applicable to Officers upto Scale IV. Hence, in order to retain the eligibility of officers upto the cadres of Scale IV, who have been superceded in promotion in three consecutive promotional exercises, under the Scheme, suitable modification of the eligibility clause was recommended.

The Board of our Company has accorded approval for insertion of following proviso and Explanation thereto under clause (a) of Paragraph 4 of the General Insurance (Public Sector) Officers' Golden Gate Scheme for Voluntary Separation, 2009 as under:

“Provided that with effect from implementation of 11th Amendment of the Promotion Policy for Officers, 2006, in respect of Officers



upto the cadre of Scale IV, the words, "are facing or have faced exclusion from the zone of consideration for promotion to the next higher cadre as a result of operation of para 17 of the Promotion Policy for Officers. 2006" shall be replaced with the words, "have been superseded in promotion in three consecutive promotional exercises".

Explanation:

For the purpose of this clause, an officer 'A' shall be deemed to have been superseded if, in a particular year, another officer junior to him in the seniority list for that cadre has been promoted to the higher cadre, but 'A' has not been promoted."

This is for the information of all concerned.

DEPUTY GENERAL MANAGER"

21. Thus, the determinative factor for supersession under the Scheme is whether an officer's junior in the same cadre has been promoted while the officer himself has not been. The explanation underscores the principle that non-promotion, despite the promotion of juniors, is sufficient to constitute supersession, irrespective of whether the officer declined or failed to avail the opportunity for promotion.

22. Emphasis is placed on the note dated 26.11.2019, which purportedly records the factual position concerning his eligibility under the Scheme. The said note acknowledges that the appellant had submitted his application under the Scheme on 31.10.2019. Furthermore, it is noted that the Vigilance Department had granted clearance for his application vide its letter dated 14.11.2019, and the appellant was found to be eligible under the promotional exercise criteria prescribed under the Scheme. The note further delineates the



appellant's promotional history over the preceding years, which is reproduced hereunder:

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- i. *Promotion Exercise 2017-18- Not Promoted and Juniors Promoted*
- ii. *Promotion Exercise 2018-19- Promoted but not accepted the promotion and juniors promoted.*
- iii. *Promotion Exercise 2019-20- Not Promoted and Juniors Promoted."*

23. These instances establish that the appellant was superseded thrice, thereby fulfilling the eligibility criteria under the Scheme.

24. In light of the foregoing, it is evident that the appellant, by his own volition, refused to avail the promotions extended to him. His non-acceptance of promotions, coupled with the fact that his juniors were promoted in the same promotional exercises, and he remained in the same cadre, squarely brings him within the ambit of supersession as defined under the Scheme. Notable, paragraph 7 of the promotion letter dated 06.09.2016 explicitly provides as under:

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"7. In case of failing to report at your place of posting on or before 26.09.2016, this offer of promotion shall stand automatically withdrawn, irrespective of the reasons there for. The same will be treated as non-acceptance of promotion and the officer selected under contingency list will be considered against your non-acceptance."

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25. Now, proceeding to the examination of Issues (ii) and (iii) (supra), it is evident that no assertion has been made regarding any intention to withdraw application for voluntary separation prior to the receipt of the communication dated 27.11.2019. Once the application was duly accepted by the competent authority, any subsequent attempt at withdrawal becomes legally impermissible, as explicitly stipulated



under sub-clauses (iv) and (v) of Clause 8 of the Scheme extracted (supra). The contractual framework governing the Scheme, being binding in nature, does not permit unilateral retraction once acceptance has been duly communicated.

26. The contention of the appellant that his application under the Scheme was submitted under duress, frustration, or compelling circumstances is devoid of merit.

27. Once an application for voluntary separation is submitted with full knowledge and awareness, it cannot subsequently be withdrawn on the mere assertion of emotional distress. The sanctity of contractual obligations and the finality of administrative decisions must be upheld to prevent abuse of process and unwarranted retraction of binding commitments.

28. As regards the issue of allege non-compliance with the prescribed rules, the Scheme itself mandates that an application for voluntary separation be submitted with full knowledge and understanding of its consequences. In the present case, the appellant's application was duly submitted in the prescribed format and contained all requisite particulars, including personal details, a duly executed nomination form, and an unequivocal declaration affirming his acceptance of the terms and conditions of the Scheme.

29. Upon a meticulous examination of the general conditions prescribing the procedural requirements for submission of an application under the Scheme, it is evident that an officer intending to avail the benefit of voluntary separation is required to submit the



application in the prescribed format as per Appendix A extracted (supra), in triplicate, through the proper channel, and addressed to the Competent Authority.

30. The record categorically established that the application was submitted from the appellant's official email account, in the format prescribed by the respondent, and was addressed to the Chairman and Managing Director of the Respondent Corporation.

31. Furthermore, the application submitted by the appellant records his acknowledgement that he has read, understood, and unconditionally accepted the terms and conditions governing the Scheme. Additionally, the annexure to Appendix A forming an integral part of the application, contains all requisite particulars of the Appellant, including his name, date of birth, and date of joining the Corporation. It is further noted that the appellant completed Appendix B, which is the nomination form, wherein he designated his wife as his nominee, thereby demonstrating full compliance with the procedural requirements of the mandated under the Scheme.

32. The mode and manner of submission conform to the stipulated procedural requirements under the Scheme, thereby negating any contention of irregularity or procedural infirmity.

33. In light of the foregoing discussion, it stands established that the appellant had voluntarily submitted his application under the Golden Gate Scheme in accordance with the prescribed procedural framework. The said application, having been duly processed and accepted by the Competent Authority, attained finality in law, and any subsequent attempt at withdrawal is legally impermissible.



34. In view of the afore-stated findings, this Court finds no merit in the present appeal.

35. Accordingly, the order of the learned Single Judge is upheld and the present appeal stands dismissed. There shall be no order as to costs.

36. Pending applications, if any, also stand disposed of.

AJAY DIGPAUL, J.

C. HARI SHANKAR, J.

FEBRUARY 28, 2025

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Click here to check corrigendum, if any