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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 13801/2021

HIMANSU BISWAS AND ORS. .....Petitioners

Through: Mr. S.P. Saxena, Mr. H.P. Chakravarti, Advocates.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Vijay Joshi, CGSC for UoI. Mr. L.R. Khatana, Advocte for R-4&5.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 16.10.2025

1. By way of the present writ petition, under Article 226 of the Constitution, the petitioners, all of whom have retired from the services of the Export Inspection Council of India ["EIC"]/Export Inspection Agency ["EIA"] under the Voluntary Retirement Scheme ["the Scheme"] notified by the Union of India on 21.05.1994, seek retiral benefits under the Central Civil Services (Pension) Rules, 1972.

2. The operative terms of the Scheme provided for the following benefits to be granted to the employees opting to retire thereunder:

"*i. Half a month's gratuity per year of service subject to a ceiling of Rs.1 Lac as admissible under the Gratuity Rules of EIC/EIAs:*

ii. Ex-gratia payment equivalent to 1 ½ months emoluments (pay + DA) for each completed year of service or the monthly emoluments at the time of retirement multiplied by the balance months of service left before normal date of retirement, whichever is less;

iii. One or 3 months pay in lieu of notice, where admissible, in terms of the condition of service/appointment of the employees:

iv. Encasement of earned leave at the credit of employees as per Ministry of Commerce OM No.15/5/93-MDA, dated January 3, 1994 up-to a maximum of 240 days.

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v. Full matching CPF contribution from EIC/Agency side irrespective of whether such employees have completed five years of service (Applicable to such employees who have not opted for the pension scheme).

vi. ***Full commutation of pension;***

vii. Travel expenses for the employees and family for proceeding to home town or to the place where he/she intends to settle in India as per his/her entitlement under the (TA) Rules of the Council."

[Emphasis supplied.]

3. I have heard Mr. H.P. Chakravarti, learned counsel for the petitioners, Mr. Vijay Joshi, learned Central Government Standing Counsel for respondent Nos. 1 to 3, and Mr. L.R. Khatana, learned counsel for respondent Nos. 4 and 5.

4. Mr. Khatana points out that a writ petition seeking similar relief, filed earlier by 57 other similarly placed employees, was dismissed by this Court in *Shri Prakash Saxena & Ors. vs. Union of India & Ors* [W.P.(C) 10212/2015, decided on 02.11.2015].

5. In the aforesaid matter, this Court examined the terms of the Scheme, and rejected the contention of the petitioners therein that the circular, insofar as it did not provide for pension under the Central Civil Services (Pension) Rules, 1972, was at variance with the decision of the Cabinet. The Court noted that the Scheme provided for full commutation of pension, and held that the terms of the Scheme were not at variance with the Cabinet's decision. The relevant observations of the Court in order dated 02.11.2015 are as follows:

"*6. A perusal of (vi) above would show that one of the conditions for granting voluntary retirement was full commutation of pension.*

7. I do not see any variance between the decision of the Cabinet and the Circulars issued on May 21, 1994, pursuant thereto the petitioners were granted VRS. The only submission made is liable to be rejected.

8. That apart, there is no dispute to the fact that VRS was granted to the

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petitioners in the year 1994 in terms of the conditions laid down in the circulars dated May 21, 1994. The petitioners have exercised their options under the said circulars and have taken the benefits thereof, including 100% commutation and twenty one years have elapsed thereafter. It is too late in the day to contend that the benefits given on voluntary retirement were not in accordance with the Cabinet decision."

6. The petitioners therein carried the matter in appeal before the Division Bench in LPA 5/2016, which was dismissed *in limine* on 05.01.2016, with the following order:

"*1. Concurring with the view taken by the learned Single Judge, while dismissing the appeal filed by the appellants, we only add that the case pleaded by the appellants with reference to the so called policy decision taken by the Cabinet is incorrect on facts. The appellants are confusing a note dated November 27, 1991 signed by the Deputy Secretary which was placed before the Hon'ble Minister of Commerce. In the note the proposal is that the proposed VRS Scheme should include terminal benefit by way of pension and commutation limited to 1/3rd of the pro-rata pension.*

2. The appellants overlook that the said proposal dated November 27, 1991 was considered at various tiers and ultimately found reflection in a note for the Cabinet dated April 04, 1994 as per which the VRS Scheme had a onetime package with entire pension to be commuted. In terms of the approval granted by the Cabinet to the note dated April 04, 1994 the VRS Scheme was introduced and terms were notified. Appellants acted under the VRS Scheme. The learned Single Judge had already noted that a writ petition filed in the year 2008 challenging the terms of the voluntary retirement scheme was dismissed and the order attained finality.

3. We would be failing not to highlight that the circular dated May 21, 1994 laid bare the terms of the VRS Scheme. Appellants accepted full benefits under the scheme which included full commutation of the pension and cannot now in the year 2015 raise the issue concerning the scheme.

4. The appeal is dismissed in limine.

5. For record we note that appellant No.1 is a lawyer and he has filed the appeal in his capacity as a lawyer for all the appellants."

7. In the rejoinder filed to the present writ petition, the petitioners have reiterated their contentions regarding the alleged inconsistency between the Scheme and the Cabinet decision. It has further been stated that the judgment of the Division Bench dated 05.01.2016 was pending

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consideration before the Supreme Court in Civil Appeal No. 8226/2016.

8. Mr. Khatana points out that the said appeal has since been disposed of by the Supreme Court on 25.04.2024, with the following observations:

> "*In these cases, the issue is whether under Voluntary Retirement Scheme of 1994, full commutation of pension be allowed or it ought to be one third.*
>
> *The impugned order was passed relying upon the case of **Welfare Association of Absorbed Central Government Employees in Public Enterprises and others vs. Union of India and another** (1996) 2 SCC 187.*
>
> *After hearing the learned counsel for the parties and after thirty years down the line of the Scheme and the fact that the appellants/petitioners have received the benefit of full commutation of pension, at present, we do not deem it appropriate to deal with the issue in detail. At this stage, we are not inclined to interfere with the impugned order by afflux of time. Accordingly, we dispose of these Civil Appeals and Special Leave Petition leaving the question of law open. Pending application(s), if any, stands disposed of.*"

9. Mr. Chakravarti is unable to demonstrate any distinction between the case of the present petitioners, and that of the petitioners in the aforesaid proceedings. It is also not disputed that the present petitioners have availed of the benefits of full commutation of pension under the Scheme.

10. In view of the above, and following the decisions rendered in the identical matter, the writ present petition is dismissed.

PRATEEK JALAN, J

OCTOBER 16, 2025
'Bhupi/sd'/

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