

(2001) 03 JH CK 0042
In the Jharkhand High Court
Case No : CWJC No. 3113 of 2000 (R)

Arjun Prasad Singh

APPELLANT

Vs

Project and Development India Ltd. and Others

RESPONDENT

Date of Decision : 08-03-2001

Acts Referred:

Citation : (2002) 50 BLJR 674

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : S.P. Roy and A.K. Das, for the Appellant; Piparwal, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhyaya, J.—The petitioner who was allowed to retire under Voluntary Retirement Scheme (VRS) having not allowed retiral benefits, as per Circular No. 374 dated 5th September, 1995 read with Circular No. 400 dated 12th October, 1995, has moved this Court for payment of rest of the benefits, as per those circulars.

2. The fact as pleaded and admits shows that the petitioner was working as A.M.O. under Project and Development India Ltd. (PDIL) Sindhri A. V.R. Scheme was in existence since 5th October, 1988 published by Government of India's Memorandum No. 2(36)/86-BPE(WC) of the said date. Thereafter, a new V.R. Scheme was introduced by Respondent-PDIL, Sindri by Circular No. 374 dated 5th September, 1995, subject to approval of Union of India. The scheme was initially made in force for fifteen days w.e.f. 7th September, 1995 to 21st September, 1995 but the date was subsequently extended upto 18th October, 1995 by subsequent Circular No. 400 dated 12th October, 1995. Interested employees were asked to submit their applications within the aforesaid period with clear stipulation that if the Union of India does not approve the scheme, the employees shall be free to withdraw the application or the scheme will be inoperative automatically. The petitioner applied on 16th October, 1995 for his

Voluntary Retirement, as per Circular dated 5th September, 1995 and showed intention to retain quarters for five years, as per the said scheme.

3. As no approval of scheme by the Union of India was communicated till January, 1996, none of the employees who opted in pursuance of V.R. Scheme dated 5th September, 1995 were released. The petitioner, vide letter dated 7th February, 1996 requested the authorities to release him w.e.f. 19th February, 1996 under the ongoing scheme of V.R. with the condition that as and when September, 1995 V.R. Scheme is accepted and implemented, the additional benefits in pursuance of subsequent scheme to be extended to him, he having applied in pursuance of September, 1995 scheme. The Management, as per request of petitioner, approved the prayer vide letter dated 24th May, 1996 and petitioner was released vide order dated 30th April, 1996. The petitioner was paid benefits in terms with October, 1988 scheme, in absence of approval of September, 1995 scheme by the Union of India, which was subsequently approved in the year 1997.

4. The claim of petitioner is for rest of the benefits, as per September, 1995 V.R. Scheme, having approved in the year 1997.

5. On the other hand, according to the Respondents, he is not entitled for benefits in terms with September, 1995 scheme, having released on 30th April, 1996, much prior to approval granted by Union of India in 1997.

6. The counsel for the Respondents relied on clause (2) of release order dated 30th April, 1996 which reads, as follows :--

"2. All dues/benefits available to him under regular Vol. Retirement Scheme will be paid on production of "NO DEMAND CERTIFICATE" from all concerned."

7. According to him, the October, 1988 V.R. Scheme being, in vogue, and as it was stipulated that the petitioner will get benefits in terms with the regular Voluntary Retirement Scheme (October, 1988 Scheme) the prayer as made, cannot be allowed.

8. According to the Respondents, as the petitioner has not collected certain dues amounting to Rs. 1,20,625/- as mentioned in Paragraph 17 to the counter affidavit, the same is payable because of revision of wages.

9. So far as gratuity amount is concerned, it is stated that the difference of ex-gratia payment arising out of the wage revision amounting to Rs. 80,000/- will not be paid to the petitioner unless the petitioner clears the rent of the quarters.

10. The stand of the Respondents that the 5th September, 1995 scheme is not applicable to petitioner having approved by Union of India in 1997, is misconceived. The counsel for the Respondents tried to explain that the said V.R. Scheme of September, 1995 can be made available to those applied after 1997, cannot be accepted as the September, 1995, V.R. Scheme was made open to them who applied between 7th September, 1995 and 18th October, 1995. A

person applied "prior to 7th September, 1995 or after 18th October, 1995 can not derive benefit out of September, 1995, V.R. Scheme. Thereby, the effect of approval of September, 1995, V.R. Scheme by Union of India, though given in the year 1997 will date back only to those applicants who applied between 7th September, 1995 and 18th October, 1995. The petitioner having applied in pursuance of September, 1995 V.R. Scheme within time on 16th October, 1995, after approval of September, 1995, V.R. Scheme, is entitled for benefits flowing out of the same.

11. So far as request of petitioner for his earlier release is concerned, he made conditional request for his release by letter dated 7th September, 19% which reads, as follows :--

"As of now, with personal reason I earnestly seek release from my service w.e.f. 19.2.1996 under ongoing scheme of V.R. with the condition that as and when the aforesaid V.R. Scheme for which I have opted, is accepted and implemented, the additional benefits enumerated therein shall also be extended to me along with others opted for V.R. with the additional benefits against the reference of Circulars issued by the chief (Personnel) Sindri dated 5.9.1995 and 12.10.1995 respectively."

The aforesaid conditional offer for release was also accepted by the Respondents, vide letter dated 24th May, 1996, will be evident from the 2nd part of the said letter, as quoted hereunder :

"This has reference to your application Dtd. 7.2.1996 seeking release under ongoing Vol. Retirement in PDIL on condition that the additional benefits as per Circular ref. No. PD/PERS/IR/60(III)/374 Dtd. 5.9.1995 together with Circular Ref. No. PD/Pers/IR/60(II)/400 Dtd. 12.10.1995 of Corporate Office, Sindri against which you initially opted for VR. shall be extended to you alongwith others as and when the Scheme is approved by the Competent Authority.

Your request for release under the on- g oing VR Scheme vide your letter Dtd. 7.2.1996 has since been approved by Management which was already communicated to you during the 3rd week of March 1996 when you contacted the undersigned over phone for seeking the position with regard to your release. However, your release from service has been delayed as you have proceeded on leave under LTC from 6.3.1996 to 13.3.1996. Subsequently it has been reported that you continued to remain on leave even after the expiry of the sanctioned period of leave. Hence, considering your request for release under the ongoing V.R. Scheme, you have already been relieved from this organisation w.e.f. 30.4.1996 (A/N). A copy of the release order was already sent to you."

12. It was in the aforesaid background, for the time being, the petitioner was allowed minimum benefits to which he was entitled under the then existing scheme (October, 1988 V.R. Scheme) and now the September, 1995 V.R. Scheme having approved, the Respondents are bound to pay the rest of the dues to the petitioner in terms with 5th September 1995, VR Scheme.

13. Accordingly, the Respondents are directed to pay the petitioner benefits, as per V.R. Scheme dated 5th September, 1995 after adjustment of amount already made. The petitioner opted for retention of quarters for five years, as per September, 1995, V.R. Scheme, he having relieved since 30th April, 1996, will be entitled to retain quarters maximum upto 30th April, 2001, and is bound to vacate the quarters at least w.e.f. 1st May, 2001.

14. In the aforesaid background, the respondents are directed to pay the rest of the amount to petitioner by 30th May, 2001 after adjustment of rent and other dues in respect to the quarters for the period upto 30th April, 2001.

15. The writ petition is allowed with the aforesaid observations and directions.

15. Petition allowed.