

CENTRAL ADMINISTRATIVE TRIBUNAL**CHENNAI BENCH****OA/_____/2016****Dated this January, Two Thousand Twenty Four****CORAM :****HON'BLE MR M. SWAMINATHAN JUDICIAL MEMBER****.. Applicant****By Advocate Mr. S. Natarajan****Vs.**

Steel Authority of India Limited,
Salem Steel Plant
rep by its Assistant General Manager(Personnel),
Salem.

.. Respondent**By Advocate M/s. C. Veeraraghavan**

ORDER

(Pronounced by The Hon'ble Mr. M. Swaminathan, Judicial Member)

The applicant has filed the OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

“ To call for the records relating to the impugned communication of the respondent in Ref No.PL-3(118376) dated 10.06.2016 and quash the same and further direct the respondent to reinstate the applicant with back wages and all service benefits and pass such further or other order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. Brief facts of the case as submitted by the applicant are as follows:

The Applicant is an Engineering decree holder in production engineering in REC, Trichy. He was appointed as Management Trainee by Steel Authority of India Limited (SAIL for short) and joined duty on 21.03.1985. In 1992, he was transferred and posted as Assistant Manager in Salem Steel Plant. He had developed software for the respondent and got letters of appreciations & awards. In 2002, Voluntary Retirement Scheme (VRS) was evolved in SAIL and a Circular was issued on 29.07.2002 to counsel employees to apply for VRS. The applicant was asked to sign in pre printed VRS application on 21.08.2002 and on 31.08.2002 he was relieved from the Job. VRS benefits were given; but salary in lieu of 3 months notice period was not given, though it is stipulated in appointment order.

2.1. The applicant further submits that after working in a Private concern for 5 years, the applicant applied for Deputy General Manager Post in Hindustan Aeronautics Limited (HAL for short) wherein he has disclosed his leaving job in SAIL under VRS. There is no prohibition for VRS candidate from applying and no condition has been stipulated in selection process. He joined as Chief Manager in HAL on 03.08.2007.

2.2 SAIL had been insisting HAL for refund of applicant's VRS benefits. In June 2009 letter by SAIL to HAL and on 29.06.2012 HAL transferred the applicant to remote location in Orissa. The transferred order was stayed in WP No. of 2012 by the Hon'ble Karnataka High Court. On repeated pressure by SAIL, departmental proceedings were initiated by HAL on the allegation of non refund of VRS benefit and the applicant was dismissed from service on 08.03.2013. The applicant filed WP No. of 2013 in the Hon'ble Karnataka High Court and the same was allowed on 23.06.2014 ordering reinstatement with consequential benefits with 9% interest. WA No. of 2104 was filed by HAL and the same was allowed on 12.11.2014 and the applicant has filed SLP's No. of 2015 before the Hon'ble Supreme court. Notice has been ordered in the above SLP's and the same is pending.

2.3 The applicant also submits that he had paid 50% premium for

disclaim benefit every year till 2012 and hence the mediclaim could not be denied for him. Non-payment of pay in lieu of notice period makes the order under VRS invalid. HAL not refused job on ground of VRS. Now the applicant is out of job from HAL also. If reinstated in SAIL, he is ready to refund VRS benefit. He gave two representations on 20.05.2016 and 23.05.2016 seeking for reinstatement. But on 10.06.2016, impugned order was passed rejecting the applicant's request; taking the stand that he is not entitled for notice period salary under VRS and further direction to return the VRS benefit. The applicant filed WP No. of 2016 challenging the impugned order and the Hon'ble High Court directed to approach CAT, hence the present Original Application.

3. Heard the learned counsel for the applicant Mrs Vijayakumari for M/s. S. Natarajan and the learned counsel for the respondent M/s. C. Veeraraghavan, perused the pleadings and the materials, placed on record.

4. The learned counsel for the applicant submitted that the applicant came out on VRS from SAIL on 31.08.2012 which was specifically disclosed in the resume given to HAL. She further contended that to reduce the manpower to cut the departmental expenses, the VRS was introduced and on the threat that otherwise the employees have to face retrenchment, the VRS was thrust on the employees including the

applicant. She further submitted that after several years the applicant was working in HAL, the respondents instigated HAL to take proceedings against the applicant and ultimately the applicant was dismissed from the services of HAL. It is strange that the respondent who is the cause for the dismissal of the applicant from HAL is still seeking for refund of VRS benefit from the applicant. This clearly established the mala fide and vindictive attitude of the respondent and the same is unsustainable.

5. The learned counsel for the applicant further submitted fairly that the order of dismissal from HAL was challenged by the applicant in the Hon'ble Karnataka High Court which set aside the dismissal order with direction to pay back wages. But on Writ Appeal the same was reversed and the applicant filed the SLP before the Hon'ble Apex court and the same was also dismissed on 27.03.2017.

6. She further submitted that the VRS amount has been settled as early as 31.08.2002. After working for 5 years in a private concern, the applicant joined HAL on 31.08.2007. The claim by the respondent seeking for refund is even barred by the law of limitation. The respondent could not even file Suit to recover, as it is barred by limitation. When it is barred by law, the steps taken by the respondent against the applicant to recover the VRS amount could not be sustained and the same is mere harassment.

Therefore she pleaded for the relief sought for.

7. Per contra the learned counsel for the respondent vehemently opposed the submission of the applicant. The learned counsel submitted that as per the VRS 2002 Scheme, the applicant is not entitled to future employment with the SAIL. He further submitted that the respondent is no way connected for the dismissal of the applicant from HAL which is only due to his misconduct and not on account of the acts of the respondent.

8. He further submitted that it is incorrect and the claim of the respondent is not barred by any limitation. It is the legal bounded duty of the applicant to inform with regard to the re-employment of the applicant with Public Sector Undertaking and on coming to know his employment in the year 2008 through HAL, the respondent has taken steps for return of VR benefits immediately which is within the time and there is no delay on the part of the respondent to claim for return of the VR benefits as alleged by the applicant. He contended that the applicant is liable to return the VR benefits in view of his gainful employment in HAL, a Public Sector Undertaking after availing VRS in 2002, there is no provision for reinstatement in SAIL and the binding clauses of the Scheme dis entitles the applicant for reinstatement. Therefore the OA is liable to be dismissed.

9. I have given my thoughtful consideration to the submissions made by

the learned counsel on both sides and also gone through case laws relied on by the learned counsel for the applicant in support of his contentions. The various citations referred to by the applicant, which I have perused and found the same not precisely, relevant to the present case.. As rightly pointed out by the counsel for applicant, the applicant was forced to take VRS which is evident from A-3 Page 22 “employees would have to opt for VRS within 3 months from the date of offer failing which they would be eligible only for retrenchment compensation”. As per A-5 it is also mentioned that “once an employee avails himself for VRS from a PSU he shall not be allotted to take up employment in another PSU, if he desire to so, he shall have to return the VRS compensation received by him to the PSU concerned”. But the said Scheme never contemplates is it permanent bar or for a stipulated period of time. The Scheme is silent about that.

10. In the present case the applicant after the taking VRS from SAIL in the year 2002 the applicant joined HAL only in the year 2007 after working in a private firm. As rightly pointed out by the counsel for the applicant the applicant has disclosed the same before joining HAL. The claim of the respondent seeking refund of VRS benefit is barred by limitation, when it is barred by limitation the steps taken by the respondent against the applicant to recover the VRS amount could not be sustained and the same is mere harassment. This is only with reference to the

recovery of the VRS benefit from the applicant by the respondent.

11. As rightly pointed by the respondent, the applicant having opted for VRS Scheme 2002 from SAIL there is no provision under the VR Scheme for reinstatement of the applicant. Therefore, the applicant cannot be reinstated in the respondent concern SAIL. The relief claimed by the applicant in this regard fails and it is accordingly dismissed. The interim stay granted earlier by this Tribunal on 05.10.2016 against such a prayer stands vacated.

12. With regard to the recovery of VRS benefits, the respondents are estopped from doing so, as it is barred by limitation. The applicant has also lost his job in HAL and such recovery will amount to mere harassment. In the said circumstances, the interim stay granted by the Tribunal on 05.10.2016 is made absolute with regard to recovery only.

13. In the result. the OA is partly allowed as indicated above. No order as to Costs.

(M. SWAMINATHAN)
MEMBER(J)
02.01.2024

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