

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7389 OF 2011
[ARISING OUT OF SLP (CIVIL) NO.9211 OF 2010]

Man Singh

... Appellant

Versus

Maruti Suzuki India Ltd. & Another

... Respondents

ORDER

1. Leave granted.
2. The relationship of employer and workman between the appellant and the respondent – company was brought to end in terms of a voluntary retirement scheme (in short “VRS”) introduced by the management of the company in September, 2011. The appellant, however, alleged that he was made to take voluntary retirement under duress and, in reality, his removal from service was illegal and unjustified. On those allegations he

raised an industrial dispute. The appropriate Government referred the dispute for adjudication before the Labour Court, Gurgaon, *vide* order dated December 4, 2006. The reference is in the following terms:

“Whether the termination of service of Shri Man Singh on the basis of VRS Scheme by the Management was justified and correct, if not, to what relief is he entitled?”

3. The respondent – company challenged the competence and validity of the reference in a Writ Petition (CWP No.3358/2009) before the Punjab and Haryana High Court. On behalf of the respondent – company, it was contended that having accepted the full monetary benefits under the VRS, it was no longer open to the appellant to question or challenge his termination of service and, in any case, any adjudication on the dispute raised by the appellant should not be allowed to proceed while he retained all the monetary benefits collected by him under the scheme.

4. A learned single Judge of the High Court upheld the respondent’s contention and while disposing of the Writ Petition by judgment and order dated November 23, 2009 made the following directions:-

“To make the scales even, the Labour Court will undertake the adjudication on the reference, if only the workman deposits the amount which he has received into Court with interest from the date when he has received to the date of deposit calculated at 7.5% per annum. If the deposit is not made within 60 days from the date when reference was issued

to him, the reference made by the Government shall stand annulled.

The writ petition is disposed of in the above terms.”

5. The appellant challenged the order passed by the single Judge in an intra-court appeal but a Division Bench of the High Court dismissed his appeal [(L.P.A. No.82 of 2010)(O & M)] by a brief order, dated January 21, 2010.

6. The appellant has now brought this matter to this Court. On behalf of the appellant, it is submitted that the High Court in exercise of its writ jurisdiction could not interfere with the reference made by the appropriate Government and the direction to deposit in court the amount received by him under the VRS along with interest at the rate of 7.5% per annum as the condition for the reference to proceed, was quite unreasonable, inequitable and illegal.

7. The submission made on behalf of the appellant is fully answered by an earlier decision of this Court in *Ramesh Chandra Sankla and others* versus *Vikram Cement and others* (2008) 14 SCC 58. In *Ramesh Chandra Sankla* a number of workmen of Vikram Cement Company who had ceased to be the employees of Company after accepting full benefits under the scheme of voluntary retirement moved the Labour Court under

section 31 of the Madhya Pradesh Industrial Relations Act, 1960 making the same allegations against the Company as the appellant in this case. In that case, the Labour Court declined to decide certain issues framed at the instance of the management as preliminary issues. The management's appeal against the decision of the Labour Court not to decide those issues as preliminary issues was rejected by the Industrial Court. The writ petition filed by the management was dismissed by a learned single Judge on the ground that the orders passed by the Labour Court and affirmed by the Industrial Court were interlocutory in nature. The management took the matter before the Division Bench which held that the writ petitions filed by the Company were under Article 227 of the Constitution and the single Judge was exercising supervisory jurisdiction; hence, intra-court appeals were not maintainable and the appeals filed by the Company were liable to be dismissed on that score alone. Even while holding that the management's appeals were liable to be dismissed as not maintainable, the Division Bench went on to hold that since the workmen had approached the Labour Court after having received the benefits under the scheme, it would be equitable to direct the concerned employees to return the benefits so received to the employer subject to the undertaking by the

Company that in the event the Labour Court allowed the claim and granted benefits to the workmen, the same would be restored to them by the Company with interest at the rate of 6% per annum.

8. The workmen challenged the order of the Division Bench before this Court *inter alia* on the ground that having held that the management's appeals were not maintainable, the Division Bench had no jurisdiction to make the impugned direction. This Court repelled the workmen's contention and in paragraphs 100 and 101 of the decision held and observed as follows:-

“100. Even otherwise, according to the workmen, they were compelled to accept the amount and they received such amount under coercion and duress. In our considered opinion, they cannot retain the benefit if they want to prosecute claim petitions instituted by them with the Labour Court. Hence, the order passed by the Division Bench of the High Court as to refund of amount cannot be termed unjust, inequitable or improper. Hence, even if it is held that a “technical” contention raised by the workmen has some force, this Court which again exercises discretionary and equitable jurisdiction under Article 136 of the Constitution, will not interfere with a direction which is in consonance with the doctrine of equity. It has been rightly said that a person “who seeks equity must do equity”. Here the workmen claim benefits as workmen of the Company, but they do not want to part with the benefit they have received towards retirement and severance of relationship of master and servant. It simply cannot be permitted. In our judgment, therefore, the final direction issued by the Division Bench needs no interference,

particularly when the Company has also approached this Court under Article 136 of the Constitution.

101. For the foregoing reasons, in our opinion, the order passed by the Division Bench of the High Court deserves to be confirmed and is hereby confirmed. The payment which is required to be made as per the said order should be made by the applicants intending to prosecute their claims before the Labour Court, Mandsour. In view of the fact, however, that the said period is by now over, ends of justice would be served if we extend the time so as to enable the applicants to refund the amount. We, therefore, extend the time up to 31-12-2008 to make such payment. We may, however, clarify that the claim petitions will not be proceeded with till such payment is made. If the payment is not made within the period stipulated above, the claim petitions of those applicants will automatically stand dismissed. The Labour Court will take up the claim petitions after 31-12-2008.”

The present case is squarely covered by the decision of this Court in *Ramesh Chandra Sankla* (supra). We, thus, find no merit in the submission made on behalf of the appellant that the High Court had no jurisdiction to make a direction for refund of the entire amount received by the appellant as a condition precedent for the reference to proceed.

9. We, however, feel that the imposition of interest at the rate of 7.5% per annum was a little harsh and unwarranted. Having regard to the fact that the appellant is no longer in service, we feel that the ends of justice would meet if the direction for refund is confined only to the principal amount received by the appellant under VRS. We, accordingly, modify

the order of the High Court to this limited extent and direct the appellant to refund the amount received by him under VRS, without any interest. In case the amount, as directed, is deposited by the appellant by November 30, 2011, the reference shall proceed in accordance with law, otherwise it would stand quashed.

10. The appeal stands disposed of subject to the above observations and directions.

.....J.
(Aftab Alam)

.....J.
(R.M. Lodha)

New Delhi;
August 26, 2011.