HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

and

HON'BLE SRI JUSTICE V. SRINIVAS

WRIT APPEAL No.825 of 2022

ORDER: *(per D.V.S.S.Somayajulu, J)*

With the consent of both the learned counsel, this Writ Appeal itself has been taken up for hearing.

2) This Court has heard Sri W.V.Srinivas, learned senior counsel, on behalf of Sri K. Sarva Bhouma Rao, learned counsel for the appellants, and Sri C. Raghu, the learned senior counsel for the 1st respondent and Sri N. Harinath, learned Deputy Solicitor General appearing for the 2nd respondent.

3) This Writ Appeal is filed questioning the order of the learned single Judge, dated 20.09.2022, passed in W.P.No.6794 of 2022.

4) For the sake of convenience the parties are referred to as writ petitioner and respondents 1 to 4; as they are arrayed in the Writ Petition.

5) Sri W.V.Srinivas, learned senior counsel appearing for respondents 2 to 4 (present appellants) has

argued the matter. According to him there are two schemes provided by the respondent company i.e., Rashtriya Ispat Nigam Limited (for short "RINL"), for its retired employees, one is Group Mediclaim Insurance Scheme and the other is Post Retirement Medical Scheme (PRMS). It is his contention that the new scheme that was introduced by virtue of the Circular No. 2 of 2022 is more beneficial to the retired employees and that the said scheme is introduced in line with the directions of the Union of India. The Union directed that the corpus should be created on the basis of various factors including profitability of the company and then scheme should be offered to the employees. He contends that in the impugned order the clarifications issued by the Department of Public Enterprises were not considered; and that the learned single Judge interfered in the matter of policy and that there is discernable differentiation between the people covered by the scheme and that the word "option" which has been heavily relied upon by the learned single Judge, is wrongly interpreted and the actual perspective is not taken. He also submitted that the option is only with regard to *lump sum* payment or deferred payment etc., and

not for an option to choose between the new scheme or the old scheme. On facts, he also points out that 3,250 out of 3,500 eligible beneficiaries have also joined the new scheme and the RINL have already contributed its corpus towards the same. Implementation of the order, according to the learned senior counsel, was not considered. He relies upon a compilation of nine case law, which is filed and argued that it is a right of the respondent-RINL to frame an appropriate scheme. Therefore, he submits that learned single Judge committed an error in allowing the Writ Petition in the manner that he did.

6) In reply to this, Sri C. Raghu, learned senior counsel appearing for the petitioner-1st respondent submits that the Group Mediclaim Scheme has been in vogue for long and was availed by the bulk of the employees, who have retired after the cutoff date i.e., 01.01.2007, is sought to be suddenly removed by the new scheme. He also points out that new scheme would increase the financial burden on the retired employees, who are all pensioners and they cannot, opt for this higher payments. He points out that the writ petitioners were not challenging the right of the RINL to

formulate the new scheme but are actually aggrieved by the fact that the option available to them and the option exercised by them since long is suddenly sought to be taken from them by an Official Memorandum. He points out that the conclusion that is being attacked by the respondent-RINL is the reason why the writ petitioner's association has approached this Court. Therefore, learned counsel submits that the learned single Judge did not commit any error and that the question framed by the learned single Judge that whether the executives who have separated from the 2nd respondent corporation on or after 01.01.2007 have an option to continue under the old scheme or whether they have to move to the new scheme and cannot seek coverage under the old scheme is the crux of the issue. He submits that the single Judge did not commit any error and that this Court should not interfere in the order passed.

7) Learned Deputy Solicitor General, who has submitted that Union of India arrayed as a party without any substantial relief being claimed against them and that the respondent Union would be abiding by the orders of this Court.

8) This Court, after perusing the issues raised, notices that the initial scheme called the Group Mediclaim Insurance Scheme has been in vogue since long. It was introduced in September, 1992 and modified thereafter. It is still continuing. According to the said scheme which is meant for retired employees of RINL and their eligible family members, they would be given medical benefits upto certain limits. Each member, who wishes to enroll in the scheme will have to pay Rs.1300/- per member for the policy period and Rs.2,600/- per couple for policy period. The employees and family members can be treated in enrolled company hospitals. OPD treatment is also provided. Settlement of claims is through the insurance company which issues the policy.

9) Thereafter, it appears that a new scheme called the Post Retirement Medical Scheme (PRMS) has been introduced. The Board of RINL took this decision on 30.12.2020 and a policy Circular dated 09.02.2021 was issued. It applies to the executives, who have separated from RINL on or after 01.01.2007. Para-2 of this circular states that the employees, who have retired prior to 01.01.2007 and

Non-Executives will continue to be covered under the existing Group Mediclaim Insurance Scheme.

10) The definition of "Member" is given in Clause 3.1 and "Separation" is defined in Clause 3.3. These issues are not in doubt.

11) Further Circular dated 03.03.2022 bearing No.2 of 2022 has been issued, which talks of enrollment / renewal of benefits under PRMS scheme. It clearly states in paragraph 1 itself that *"It is for information of all the concerned that the executives separated on or after 01.01.2007 shall have to necessarily opt for RINLPRM in order to avail Post Retirement Medical Benefits."*

12) It is this language which is the subject matter of the challenge. Learned senior counsel attempted to justify the scheme by saying it is more beneficial to the retired employees etc., and that this is "policy" decision and so the Court should not interfere. However, the writ petitioner relied upon in Official Memorandum dated 21.05.2014, which is a general memorandum given by the Ministry of Heavy Industries and Public Enterprises with regard to Post Superannuation Medical Benefits. The cutoff date of

01.01.2007 is reflected in this office memorandum. Point No.5 of this Office Memorandum dated 21.05.2014 clearly states that if a regular employee does not want to contribute to the proposed scheme he or she should have an option.

13) It is this Memorandum that has become the subject matter of the interpretation and also challenge. While the learned senior counsel for the 1st respondent-appellant argued that the new scheme is better the learned senior counsel for the writ petitioner-respondent states that an option should always be given to an employee to choose the scheme which is more beneficial or affordable. He submits that it cannot be thrust down the throat of a retired employee.

14) This Court after examining the submissions as mentioned above notices that this is essentially a welfare scheme initiated to benefit the retired employees. The documents filed or the submissions advanced do not lead to a conclusion that the retired employees were taken into confidence or that they were consulted before the new scheme was introduced. Admittedly, the earlier insurance, Group Medical Insurance Scheme was in vogue for a long

time. It is accepted, tried and tested. Therefore, this Court holds that without the consent of the retired employees the scheme cannot be unilaterally modified. If the appellant was of the opinion that the scheme could be modified it should have taken the writ petitioners into confidence. Apart from that it is clear that this is a welfare scheme and it is meant for the benefit of the employees, particularly, those who have rendered services and have separated. Since it is a welfare measure, the interpretation must also be pro-employee. Apart from this Court's conclusion the office memorandum dated 21.05.2014 relied upon by the learned single Judge also clearly supports this conclusion. Since pay revision is effected with effect from 01.01.2007 the Central Government directed that a new scheme may be effected with effect from 01.01.2007 or a subsequent date. It is clearly mentioned if the regular employee does not want to contribute to the proposed scheme he or she should have an option. In this Court's opinion this reflects the choice between two schemes and not a choice between two modes of payment.

15) The judgments cited in the opinion of this Court are also not really any way relevant to this, since the

petitioners have not challenged the policy per se but have challenged the manner in which it is being imposed.

16) It is made clear this Court also has not pronounced anything on the intrinsic merits of the scheme which were argued. Learned single Judge also do not go into the said issue and on the issue of option itself, this Court agrees that the writ petition was rightly disposed of. The Writ Appeal is, therefore, dismissed, confirming the order, dated 20.09.2022, in W.P.No.6794 of 2022. There shall be no order as to costs.

17) Consequently, pending miscellaneous applications, if any, shall stand closed.

_____

D.V.S.S.SOMAYAJULU, J

_____

V. SRINIVAS, J

Date:10.04.2023.
Ssv