

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2354 OF 2025
(Arising out of SLP (C)No. 16863 of 2019)

M/S AVTEC LIMITED

Appellant(s)

VERSUS

AVINASH SHARMA & ORS.

Respondent(s)

O R D E R

1) Leave granted.

2) Assailing the impugned order dated 23.01.2019 passed by the learned Single Judge of the High Court of Madhya Pradesh, Bench at Indore in W.P. No. 4972 of 2017 setting aside the order dated 10.07.2017 of the Labour Court, Dhar, passed on I.A. Nos. 3 and 4 in Case No. 47/2016/IDR, the present appeal has been filed.

3) Before the Labour Court, an industrial dispute was raised by the workmen seeking reinstatement and consequential benefits including backwages. The

workmen claimed that their consent for voluntary retirement under the Voluntary Retirement Scheme, 2015 (hereinafter "**VRS**") of the appellant - employer was obtained under coercion.

4) During the pendency of the dispute, appellant-employer filed I.A. No. 4 for framing of an additional issue as to whether the Respondents were workmen. I.A. No. 3 was filed by the appellant - employer seeking deposit of amount received by the workmen under the VRS.

5) The Labour Court, while hearing I.A. No. 3, relied upon the judgment of **Ramesh Chandra Sankla Vs. Vikram Cement, (2008) 14 SCC 58** and directed the employees to deposit with the Court the amount of full and final settlement received under the VRS within one month from the date of order, whereafter only the application filed by the employees shall be considered and decided.

6) Being aggrieved by the said direction, the employees approached the High Court. By the

impugned order, the High Court passed the order in the following terms:

"In the present case, the issue yet to be decided whether the petitioners were retrenched by giving the benefit under the VRS and if this issue is answered, then the labour Court is required to consider that the workmen are entitled to claim for reinstatement without returning the amount to the management. While passing the order impugned, the labour Court has presumed that the petitioners were retrenched by way of VRS and they are liable to return the amount and if this finding has been recorded then nothing will remain for labour Court to decide in issue no. 1 and 2. Therefore, the labour Court is required to decide the issue no. 1 and 2 on merit after taking evidence then the issue no. 3 is liable to be decided.

Hence, writ petition is allowed and the impugned order is hereby set aside, so far as it relates to the direction to the petitioners to deposit the amount received under the VRS. No order as to cost."

7) In view of the said direction, the order of the Labour Court directing to deposit the amount has been set aside by the High Court. Feeling dissatisfied with the order of the learned single judge of the High Court, the employer has approached this Court in this appeal.

8) Learned counsel for the appellant has placed reliance on the judgment of this Court in **Ramesh**

Chandra Sankla (Supra) and the judgment in **Man Singh vs. Maruti Suzuki India Limited and Another (2011) 14 SCC 662** to submit that in a case where direction of the High Court to deposit the amount received by the employee through VRS was found equitable and justiciable, interreference in the said judgment has been declined. It is urged that on facts when Labour Court found that deposit, at first instance, would bring an employee back to the stage at which he applied under VRS, then at the same time, the employer would have discretion to pass appropriate orders in terms of the scheme. Therefore, the order of the Labour Court returning the parties to *status quo ante* by directing the employees for deposit of VRS amount by the Labour Court, interfered by the High Court for the reasons as specified in the impugned order is not justified.

9) Per contra, placing reliance on a judgment of **Saint Gobain Sekurit India Ltd. vs. Kuyesh Durjan Yadav and Another, 2015 (SC Online) Bom 6777** it is urged by the respondent that for considering the

challenge of an employee alleging fraud by the management under the garb of a VRS, it is not mandatory for an employee to deposit the amount received under the scheme. Therefore, said interference in the order of the High Court may not be warranted in the facts.

10) We have considered the submissions as raised by the parties and have perused the pleadings made in the dispute. On perusal, it reveals after floating the VRS, application was submitted by the respondent No.1 on 15.10.2015 which was accepted on the same date and the amount payable under the VRS was transferred to Respondent No. 1 on 31.10.2015. Similar were the case of other workmen whose applications were received and accepted on different dates. An industrial dispute was raised, and the statement of claim was filed before the Labour Court on 24.02.2016. After framing issues and on filing the objections by way of an application, by the order impugned, the Labour Court framed an additional issue and also directed the employees to

deposit the amount received under the VRS scheme in order to restore status quo ante. On perusal of the findings recorded in the impugned order by the High Court, it reveals that the court proceeded on the premise that the VRS was granted by virtue of a retrenchment and in case the deposit as directed by the Labour Court is made by the employees, nothing would remain for the Labour Court to decide further and to record the findings on issue Nos. 1 and 2.

11) In our view, reversing the discretionary order by the High Court on the aforementioned findings is not justified. It is to be observed that once the Labour Court in the facts of the case exercised equitable jurisdiction, the order directing to deposit the VRS amount received by the employee is based on discretion, bringing the parties on equitable footing and to decide the justifiability of sanction of VRS, it did not warrant interference.

12) In our considered opinion, the grant of benefit under the VRS has nothing to do with the retrenchment of an employee. Therefore, the High

Court was not justified while interfering with the order of Labour Court. Thus, after giving anxious consideration to the argument of the employee that the deposit cannot be mandatory in the light of the judgment of the Bombay High Court in ***Saint Gobain Sekurit India Ltd.*** (Supra), in our view, there cannot be any doubt on the said analogy. In particular, in the facts and circumstances of that case, the Labour Court had dismissed the application of the management seeking deposit of the amount by passing an unreasoned order. In that context, the High Court, while setting aside the said order and remitting the matter to the Labour Court, had observed that a direction against the employee to deposit the VRS benefit cannot be passed as a mandatory pre-condition nor can such an order be passed without application of mind or without discussing the facts and circumstances of each case.

13) However, advertng to the facts of the present case, the issue of refund of the amount for deciding the justifiability of sanction of VRS is different

than retrenchment and in the facts of the case, if the Labour Court, after considering the material on record and after recording reasons has directed for deposit of such an amount with the intent to restore *status quo ante*, such direction was not required to be interfered by the High Court for the reasoning as specified in the order impugned.

14) In our view, VRS and retrenchment are two different aspects for a workman. VRS is under a scheme where retirement is voluntarily accepted by the workman, while retrenchment is a process wherein the management without following a procedure takes action. Once under a voluntary scheme, applications were voluntarily submitted by the workmen and the amount has been received in their account, in such a situation, in a challenge to the voluntary retirement, if direction has been issued by the Labour Court exercising equity jurisdiction to adjudicate the issue, in our view, the High Court's interference was not warranted.

15) Accordingly, we set aside the order passed by

the High Court restoring the order of the Labour Court and allow this appeal.

16) As the order passed by the Labour Court was set aside by the High Court which has not been given sanction by this Court, therefore, we direct that on restoring the order, the workmen would be at liberty to deposit the said amount within a period of three months and on such deposit, the Labour Court may proceed to decide the dispute on merits as expeditiously as possible.

....., J.
[J.K. MAHESHWARI]

....., J.
[ARAVIND KUMAR]

New Delhi;
February 12, 2025.

ITEM NO.1

COURT NO.6

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 2354/2025**(Arising out of SLP (C)No. 16863/2019)****(Arising out of impugned final judgment and order dated 23-01-2019 in WP No. 4972/2017 passed by the High Court of M.P. at Indore)****M/S AVTEC LIMITED****Appellant(s)****VERSUS****AVINASH SHARMA & ORS.****Respondent(s)****(IA No. 96645/2019 - EXEMPTION FROM FILING O.T.)****Date : 12-02-2025 This matter was called on for hearing today.****CORAM :**

HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) :

Mr. J.P. Cama, Sr. Adv.
Mr. Navin Prakash, AOR

For Respondent(s) :

Mr. N.K. Mody, Sr. Adv.
Mr. Suresh Kumar Bhan, Adv.
Ms. Ishita M. Puranik, Adv.
Mr. Prabuddha Singh Gour, Adv.
Ms. Jigisha Agarwal, Adv.
Ms. Shivani Sagar, Adv.
Mr. Praveen Swarup, AOR

UPON hearing the counsel the Court made the following
O R D E R

- 1) Leave granted.
 - 2) The appeal is allowed in terms of the signed order.
- Pending application(s), if any, shall stand disposed of.

(NIDHI AHUJA)
AR-cum-PS

(NAND KISHOR)
COURT MASTER (NSH)

[Signed order is placed on the file.]