JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 4326 of 2013

Mian Muhammad Aslam, etc.

Versus

State Life Insurance Corporation of Pakistan, etc.

Date of Hearing	:	13.05.2022.
Appellant by	:	Muneeb Ahmed, Advocate
Respondent by	:	Tahir Malik, Advocate

ARBAB MUHAMMAD TAHIR, J. Through the instant writ petition, the petitioners are seeking declaration to the effect that Voluntary Retirement Separation Scheme **("V.R.S.S")** issued through Executive Order dated 15.11.2000 being enforced without prior approval of the Federal Government as required under Section 49 of Life Insurance Nationalization Order 1972 be declared illegal and without lawful authority.

2. Facts of the case are that the petitioners remained in service with the respondent (State Life Insurance Corporation), the respondent introduced V.R.S.S through Executive Order dated 15.11.2000 which the petitioner availed; that similarly the revised pension scheme executive order dated 12.02.2001 was withdrawn after the lapse of 12 years' vide Circular dated 19.04.2012, owing to the consequence of the implementation of the law point; that Executive Order will not override statutory Pension Regulation Year 1986; that as per the normal retirement of the employee, un approved revised pension scheme Executive Order dated 12.02.2001 has been converted into retirement by adjusting the payments already made thereunder; that the respondent made admission statement regarding the unapproved V.R.S.S and

unapproved revised pension Scheme; as per respondent's stance, the V.R.S.S Scheme does not require approval of the Federal Government; that due to non-approval from the Federal Government, the V.R.S.S adversely affected the employees; that the petitioners submitted representation to the respondent for same treatment, like afforded to petitioners in Writ Petition No. 9183/06, in terms of the law laid down by the Apex Court in Civil Appeal No. 528-L/2009, but without response, hence instant writ petition.

3. The learned counsel for the petitioners contended that the Executive Order dated 15.11.2000 is illegal and unlawful wherein the petitioners were forced to adopt V.R.S.S; that as per the unapproved Executive Order dated 15.11.2000 "*option for voluntary Retirement/Separation Scheme once exercised, cannot be cancelled/revoked/withdrawn or changed by staff members*" which is against the law and contradictory to the O.M. dated 29.12.1997 issued by the Cabinet Secretariat, wherein it is clearly mentioned that "*it has been decided by the competent authority that the government servants who have either applied for withdrawal or want to withdraw their options for retirement under the above scheme may be allowed to do so*"; that the petitioners adopted the said scheme due to influence which is evident from the circular dated 15.11.2000 wherein it is mentioned that "*if the corporation does not achieve the number of to be down-sized by voluntary retirement/separation scheme then immediate afterwards the service of the employees will be terminated under service Regulation 22 (1) 9b) no additional benefits will be allowed other than those provided under the service regulations*"; that the amendment in pension and provident fund Regulations could not be done without the approval of Federal Government; that the retirement of the petitioners under V.R.R.S is violative of Article 4 of the Constitution, which provides protection of law and no action detrimental to their rights.

4. The respondents through their written *parawise comments* submitted that the petitioners challenged the said scheme before

the Federal Service Tribunal, Islamabad. The petition was dismissed by the learned Tribunal and the appeal before the Hon'ble Supreme Court of Pakistan was also dismissed; that the petition filed by petitioners is time bared; that the respondents introduced a scheme with the name of V.R.S.S in the year 2000 and number of employees of the respondent Corporation applied for the same with their free will; that the petitioners applied for the said Scheme and received the benefits of the scheme as per the terms and conditions; that the scheme was challenged by different opties like petitioners before the FST as well as before the Hon'ble Apex Court, but the pleas of the petitioners were dismissed by both the Courts and that the petitioners had already enjoyed the benefits of the said Scheme, therefore petition is liable to be dismissed.

5. I have heard the learned counsel for the parties and gone through the record with their able assistance.

6. Perusal of the record reveals that on the subject i.e. *Voluntarily Retirement/Separation Scheme 2000*, appeals were preferred before the FST and the same were disposed of vide judgment dated 21.01.2003. Civil Petition No. 591 to 612 & 630 of 2003 were preferred against the judgment ibid before the Hon'ble Apex Court which was also dismissed vide judgment dated 03.06.2009.

8. Another important aspect of the matter is that the scheme under which the petitioner have availed benefits pertains to the year 2000 while instant writ petition had been preferred after 13 years, which is hit by the principle of laches. The petitioners after taking benefits and accepting the terms and conditions of the said scheme cannot retract from the same after such a long delay.

9. It is also noticed from the documents annexed with the written comments that on the Writ Petition No. 11036/2013 was dismissed by the Hon'ble Lahore High Court vide judgment dated 24.01.2014. ICA against the said judgment bearing No. 173/2014 was also dismissed in limine, wherein it was observed that *"after*

the acceptance of VRSS Scheme and availing benefits thereunder, the appellant is stopped to claim that the said VRSS Scheme be declared null and void and contrary to the regulations."

10. In view of above, the instant writ petition lacks of merits is **dismissed** accordingly**.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

Announced in an open Court on _____05.2022.

JUDGE

//Kamran//*