



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 8429 OF 2024

Pabitra Kumar Behera and others* *Petitioners

Mr. Susanta Dash, Advocate

-versus-

State of Odisha and others* *Opp. Parties

Mr. Siba Narayan Biswal,
Additional Standing Counsel
(For Opp. Party No.1)

Mr. Bijoy Das Mohapatra, Advocate
(For Opp. Party No.2)

Mr. Narendra Kishore Mishra, Senior Advocate
being assisted by
Mr. Nitish Kumar Mishra, Advocate
(For Opp. Party No.3)

**CORAM:
JUSTICE K.R. MOHAPATRA
JUSTICE SAVITRI RATHO**

Order No.

**ORDER
08.12.2025**

7.
 1. This matter is taken up through hybrid mode.
 2. In course of argument, Mr. Mishra, learned Senior Advocate appearing for Opposite Party No.3 places reliance on the case of *M/s. Avtec Limited –v- Avinash Sharma and others*, [Civil Appeal No.2354 of 2025 (arising out of SLP (c) No.16863 of 2019)], decided on 12th February, 2025, wherein the Hon'ble Supreme Court held as under:



“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 to 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 the 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. xxx xxx xxx

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 challenge 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."

3. Mr. Dash, learned counsel for the Petitioners though initially argued that the ratio decided in *M/s. Avtec Limited* (supra) is not applicable to the instant case, but subsequently prayed for an adjournment to go through the same and make submission.

4. Put up this matter on 21st January, 2026, as prayed for.

(K.R. Mohapatra)
Judge

(Savitri Ratho)
Judge

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