



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4663 OF 2026

Dilipbhai Dhirubhai Mahala

...Petitioner

V/s.

The Administrator Union Territory
Administration of Dadra and Nagar
Haveli

...Respondent

WITH
WRIT PETITION NO.4673 OF 2026

Jignesh Dayabhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH
WRIT PETITION NO.4759 OF 2026

Riteshkumar Rameshbhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH

WRIT PETITION NO.4760 OF 2026

Ramu Mathiya Tokare

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents**WITH****WRIT PETITION NO.4762 OF 2026**

Yogeshkumar Naraptsinh Solanki

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents**WITH****WRIT PETITION NO.4763 OF 2026**

Kalpesh Maganbhai Bhandari

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents**WITH****WRIT PETITION NO.4764 OF 2026**

Manishkumar Jorambhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH
WRIT PETITION NO. 4766 OF 2026

Anilkumar Chotubhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH
WRIT PETITION NO.4767 OF 2026

Dharmendra Kantilal Prajapati

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH
WRIT PETITION NO. 4776 OF 2026

Haresh Dalubhai Rohit

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.4838 OF 2026**

Anilkumar Bharatsinh Rathod

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.10077 OF 2025**

Ganpat Tukaram Phad

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

**WITH
WRIT PETITION NO. 10078 OF 2025**

Gulammohmed Ibrahim Patel

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

**WITH
WRIT PETITION NO. 10079 OF 2025**

Dilip D. Bhandari

...Petitioner

V/s.

Reliance Industries Industries Ltd.

...Respondents

WITH

WRIT PETITION NO. 12796 OF 2025

Pratikkumar Vinodbhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH

WRIT PETITION NO. 12806 OF 2025

Viral Suresh Chandra Desai

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH

WRIT PETITION NO.13042 OF 2025

Mukeshbhai Mandabhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.13046 OF 2025**

Shaileshkumar Ramabhai Tandel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.13047 OF 2025**

Kiritkumar Gulabbhai Mistry

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.13076 OF 2025**

Dineshkumar Babubhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.13077 OF 2025**

Bhaveshkumar Dirubhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.13106 OF 2025**

Miteshkumar Ranjitsiingh Thakor

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.14191 OF 2025**

Santosh B. Sawant

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO. 14422 OF 2025**

Jagdishkumar Ramanbhai Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH
WRIT PETITION NO. 14433 OF 2025

Mr. Chetan Barot

...Petitioner

V/s.

The Administrator, U.T. Silvassa &
others

...Respondents

WITH
WRIT PETITION NO. 14450 OF 2025

Kalpesh Kalidas Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH
WRIT PETITION NO. 14567 OF 2025

Kaileshkumar C Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

WITH
WRIT PETITION NO.14573 OF 2025

Jiteshkumar D. Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.14582 OF 2025**

Rakeshkumar Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.14591 OF 2025**

Jatin Rathod

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO. 14627 OF 2025**

Sanjay Bhagubhai Bhathiwala

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO. 14644 OF 2025**

Pravinkumar B. Dhodiya

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO.15198 OF 2025**

Jayesh Narayan Patel

...Petitioner

V/s.

1) The Administrator, Union Territory,
Administration of Dadra & Nagar
Haveli, Silvassa.)

2) M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondents

**WITH
WRIT PETITION NO. 17579 OF 2025**

Shashikant Patel

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

WITH

WRIT PETITION (STAMP) NO. 23265 OF 2025

Rajesh Anant Mali

...Petitioner

V/s.

M/s. Reliance Industries Ltd.

(Silvassa Mfg. Division)

...Respondent**WITH****WRIT PETITION NO. 17580 OF 2025**

Kamleshbhai Paragbhai Patel

...Petitioner

V/s.

M/s. Reliance Industries Ltd.

(Silvassa Mfg. Division)

...Respondent**WITH****WRIT PETITION NO.17581 OF 2025**

Satish Pandey

...Petitioner

V/s.

M/s. Reliance Industries Ltd.

(Silvassa Mfg. Division)

...Respondent**WITH****WRIT PETITION NO.17583 OF 2025**

Rajnikant Motabhai Patel

...Petitioner

V/s.

M/s. Reliance Industries Ltd.

(Silvassa Mfg. Division)

...Respondent**WITH****WRIT PETITION NO.17585 OF 2025**

Vijay Rameshbhai Solanki

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

**WITH
WRIT PETITION NO.17587 OF 2025**

Navinbhai Ahir

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

**WITH
WRIT PETITION NO. 17589 OF 2025**

Thakorbhai Budhabhai Ahir

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

**WITH
WRIT PETITION NO.17592 OF 2025**

Prakashkumar Ramanlal Thakor

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

**WITH
WRIT PETITION NO.17593 OF 2025**

Rajesh U. Patel

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

**WITH
WRIT PETITION NO.17595 OF 2025**

Arjunsinh Mahendrasinh Thakor

...Petitioner

V/s.

M/s. Reliance Industries Ltd.
(Silvassa Mfg. Division)

...Respondent

**WITH
WRIT PETITION NO. 17596 OF 2025**

Girish Ratilal Mahyavanshi

...Petitioner

V/s.

Reliance industries Limited

...Respondent

Mr. Ankur Pahade with *Mr. Anshuman R. Asare & Mr. Sanjay Kakane*, for Petitioner in WP/17579/2025, WP/17593/2025, WP/17585/2025, WP/17592/2025, WP/17589/2025, WP/17596/2025, WP/17583/2025, WP/17595/2025, WP/17581/2025, WP/17587/2025, WP/17580/2025, WP/10077/2025, WP/10078/2025, WP/10079/2025, WP(ST)/23265/2025, WP/14191/2025

Mr. Alay Sheth (through VC) i/b *Arvind Law House*, for Petitioner in WP/12806/2025, WP/14433/2025, WP/13046/2025, WP/13042/2025, WP/13077/2025, WP/13076/2025, WP/14450/2025, WP/14422/2025, WP/13047/2025, WP/12796/2025, WP/13106/2025, WP/14591/2025, WP/14582/2025, WP/14644/2025, WP/14567/2025, WP/14573/2025, WP/14627/2025, WP/15198/2025, WP/4663/2026, WP/4760/2026, WP/4764/2026, WP/4838/2026, WP/4763/2026, WP/4766/2026, WP/4762/2026, WP/4759/2026, WP/4673/2026, WP/4776/2026, WP/4767/2026

Mr. Kiran S. Bapat, Senior Advocate with *Mr. Ashwin Dave, Ms. Melanie Dsouza & Mr. Gaurav Gawande i/b A.S. Dayal & Associates*, for Respondent – *Reliance Industries Ltd.*

Mr. Harsh Dedhia, for Respondent – *The Administrator, Union Territory, Administration of Dadra & Nagar Haveli, Silvassa.*

CORAM: SANDEEP V. MARNE, J.

Judgment reserved on: 01 JULY 2026.

Judgment pronounced on: 15 JULY 2026.

JUDGMENT:

1) In this group of Petitions, Petitioners have assailed the Awards passed by the learned Presiding Officer, Labour Court, Dadra & Nagar Haveli, Silvassa answering the References made at instances of the Petitioners in the negative and rejecting their claims. The References were made by the Appropriate Government to the Labour Court in connection with the demand raised by the Petitioners for reinstatement with full backwages and continuity of service, by declaring that the resignations accepted in pursuance of Voluntary Retirement Scheme (VRS) actually amounts to their termination.

2) Identical Awards have been passed in all the References. Therefore, all the Petitions are taken up for analogous hearing and disposal.

3) Respondent No.2-M/s. Reliance Industries Limited operates a manufacturing division at Silvassa, Union Territory of Dadra & Nagar Haveli, and Daman & Diu. Petitioners were employed with the Respondent-employer on various posts. Respondent No.2 introduced VRS on 7 May 2013, which was initially operational upto 14 May 2013. According to the Petitioners, Respondent No.2 threatened them and made them sign blank papers for the purpose of forcible participation in VRS. The resignation letters shown to have been submitted by the Petitioners were accepted by the Respondent and various amounts allegedly payable under the Scheme were credited in the accounts of the

Petitioners. Petitioners raised industrial dispute by approaching the Labour Commissioner, who took up the demands of the Petitioners in conciliation. However, the conciliation failed and upon submission of the failure report, the Labour Commissioner made References to Labour Court, Silvassa, in respect of demands of Petitioners for reinstatement with continuity and back wages by declaring resignations under VRS as termination from services.

4) The Petitioners filed the respective statements of claim in the References, in which they pleaded that details of the VRS Scheme were never disclosed to them, that no notice of VRS scheme was published and that the Petitioners were threatened for securing their signatures on blank papers. Petitioners denied having participated in the VRS and disowned the resignation letters shown to have been submitted by them. Petitioners accordingly claimed for reinstatement in service with full back wages.

5) The claims of the Petitioners were resisted by the Respondent by filling written statements contending that the Petitioners had voluntarily participated in the VRS and that no industrial dispute existed. It was contended by the Respondent No.2-Company that VRS was launched on 7 May 2013, which was operational till 14 May 2013 and was extended twice upto 31 August 2013 and then upto 1 September 2013. That the Scheme was further extended upto 31 December 2014. It was claimed by the Respondent No.2 that Petitioners voluntarily submitted applications under the Scheme and the company initially made advance payment of Rs. 1,00,000/- to each workman. After acceptance of the applications under VRS, various amounts were credited

in the Bank accounts of the Petitioners, which they accepted without any demur. Respondents also raised objection of maintainability of the claims in absence of bringing back the amounts received by the Petitioners. The Respondent prayed for dismissal of the References.

6) Based on pleadings, the Labour Court framed issues in each of the References. Rival parties led evidence in support of their respective claims. After considering the pleadings, documentary and oral evidence, the Labour Court has proceeded to answer the References in the negative vide the impugned Awards, which are subject matter of challenge in the present Petitions.

Submissions on behalf of Petitioners:

7) Mr. Ankur Pahade and Mr. Alay Sheth, the learned counsels have appeared on behalf of the Petitioners and have canvassed extensive submissions.

8) Mr. Pahade submits that the Labour Court has grossly erred in answering the References in the negative. That the VRS Scheme shown to have been introduced by the Respondent No.2-Company did not comply with statutory requirements. That no proper publication was given in respect of the Scheme nor workers were given any time to understand the exact nature of the Scheme. That the Scheme was hurriedly implemented by pressurizing the workers. That the Petitioners were summoned in the office of Human Resource Manager who made them sign blank papers. That the so-called resignations were shown to be accepted on the same day.

9) Mr. Pahade submits that the Labour Court has completely ignored the Affidavits-of-evidence filed by the Petitioners and has erroneously given weightage to the so-called admission given by the workman-Mr. Tarunchandra Parmar. That admissions given by Shri. Parmar in the cross examination cannot be relied against the Petitioners, who led specific evidence of gross illegalities in implementation of the so called VRS. That statements made by Shri. Parmar in his cross examination can cover only his case and cannot be made applicable for deciding whether there was voluntary participation in the Scheme by all the Petitioners. That the Labour Court has erroneously relied on the alleged pursis submitted by the Advocate, which does not bear signature of the Petitioners. That the Petitioners are not bound by the pursis submitted by the Advocate.

10) Mr. Pahade further submits that VRS is shown to have been implemented under the guise of rationalizing the work force. However, after illegally terminating the services of the Petitioners, the Respondent-employer recruited more than two hundred new workmen on lower wages to perform the same work. That the object of the Scheme was not *bonafide* and the same is implemented for replacing the Petitioners with cheaper workforce. He therefore prays for setting aside the impugned Awards and for making the References absolute in terms of prayers made in the statements of claim.

11) Mr. Sheth has submitted that the Petitioners were never informed about the VRS. That Respondent No.2-employer did not produce any evidence about publication of VRS. That since more than one hundred

workers are removed, provisions of Chapter V-B of the Industrial Disputes Act 1947, applies to the present case. That therefore, Petitioners could not have been retrenched without following the process of law. That the Respondent No.2 witnesses gave various admissions relating to non-securing of permission for implementation of VRS. That the VRS was implemented with the objective of effecting mass clearance of existing workmen and replacing them with cheaper labour. That management witnesses have given admission of same work been done by the newly employed workers. That no prior approval was obtained by the Respondent for implementation of the VRS. That the Respondent made Petitioners sign on dotted lines by illegally treating such signed papers as applications for voluntary retirement. That it is not necessary for Petitioners to deposit the amounts received under VRS. That the Respondent-employer cannot render Petitioners jobless and then demand return of VRS benefits. That Court can make an equitable arrangement and decide prayer for reinstatement without directing deposit of VRS benefits. Mr. Sheth accordingly prays for setting aside the impugned Awards.

Submissions on behalf of Respondents:

12) Mr. Bapat, the learned Senior Advocate appearing for Respondent-employer has opposed the Petitions. He submits that the Petitions cannot be entertained in absence of deposit of payments received by Petitioners under VRS. He relies on judgments of the Apex Court in **Man Singh Vs. Maruti Suzuki India Limited and another**¹. That in similar circumstances, this Court in **Shyam Kashinath Koli and Ors. Vs. M/s.**

¹ 2011 (14) SCC 662

Essel World Leisure Private Limited² has refused to entertain the Petition in absence of refund of VRS benefits. He submits that retirement granted under VRS cannot be treated as retrenchment and in support he has relied on judgment of this Court in **M/s. Essel World Leisure Private Limited and ors. Vs. Shyam Kashinath Koli and Ors.**³.

13) Mr. Bapat submits that VRS has been validly implemented by the Respondent-employer and there is voluntary participation in the VRS by the Petitioners. He takes me through the entire timeline in support of his contention that the VRS was not implemented in a hurried manner. That the applications were made by the Petitioners on 13 May 2013 and payments were made to them on 13 May 2013 and the Petitioners were relieved from services on 31 July 2013. The Petitioners were afforded sufficient time to reconsider their decision in the event they had any reservations regarding the VRS. That various payments were thereafter made to the Petitioners up to 28 March 2014, which were accepted by them without raising any objections. That, after acceptance of huge payments, Petitioners have turned around and raised demands for reinstatement. That the conduct of the Petitioners is such that this Court need not entertain Petitions filed by them under Article 227 of the Constitution of India.

14) Mr. Bapat further submits that the Petitioners Advocate filed a pursis before the Labour Court seeking that the cross-examination of Shri Tarunchandra Parmar be adopted as the cross-examination in the

2 Writ Petition No. 3685 of 2024 decided on 26 November 2025

3 Writ Petition Lodging No. 14887 of 2023 decided on 29 September 2023

case of each of the Petitioners. That, the Petitioners did not initiate any action against their Advocate if he had filed a pursis without their instructions. That the Advocate for Mr. Parmar and Petitioners was the same. He takes me through cross-examination of Mr. Tarunchandra Parmar to demonstrate admissions given by him in the deposition. Mr. Bapat concludes by submitting that Labour Court has rendered the above findings after due consideration of entire material on record. That there is no element of perversity in the findings recorded by the Labour Court. He accordingly prays for dismissal of the Petitions.

Consideration of submissions:

15) Petitioners are ex-workmen of Reliance Industries Limited, which operates a unit for manufacturing of threads/fiber at Silvassa. The Petitioners are shown to have retired on voluntary basis after acceptance of their applications under the VRS floated by the Respondent. There is no dispute about receipts of various amounts under the VRS by the Petitioners. However, after receipt of various amounts under the VRS, Petitioners raised demands for reinstatement with back wages, contending that they were forced to resign under the VRS by the Respondent-management.

16) While Petitioners contend that the VRS was hurriedly implemented by the Respondent without giving proper publicity and sufficient time, the factual position appears to be otherwise. A perusal of the written statement as well as evidence on behalf of the Respondent would indicate that the VRS was kept alive for considerable period of

time by the Respondent. This is clear for following averments in the written statement:

a. The company had introduced Voluntary Retirement Scheme (VRS). The said scheme was launched on 07/05/2013 which was initially in operation upto 14/05/2013. However, the same by notice dated 14/05/2013 was extended upto 31/08/2013 and was again extended by notice date 01/09/2013 upto 31/12/2013 with a modification and clarification that the optees who will be relieved from 30/11/2013 onwards will be paid special incentive of Rs. 3,00,000/- (instead of special incentive offered in that eventuality in the original scheme dated 07/05/2013). The said scheme was again extended by displaying notice dated 31/12/2013 upto 01/05/2014 and then once again extended wide notice dated 01/05/2014 upto 31/12/2014. The said scheme was displayed on the notice boards of the factory of the First Party at various places along with its Annexures so as to enable the workers to know and understand the entire scheme and the Annexures thereto. The scheme and the Annexures were also displayed by the company in vernacular language on the notice boards of the factory of the First Party company. Similarly various notices and modifications as stated hereinabove were also displayed on the notice boards of the factory of the company at various places along with its translation in vernacular language so as to enable all the employees to understand the same.

17) Along with the written statements, Respondent gave the entire time line about implementation of the Scheme and making of various payments to the Petitioners. By way of illustration, the timeline applicable in case of the Petitioner Shri. Chetan Barot, as reflected in Annexure-A to the written statement, is reproduced below:

Annexure A

1. Name of the Second Party Shri Chetan Barot (19505671).
2. Date of joining of the Second Party 16.08.1996,
3. The Second Party was appointed as Non Supervisory.
4. The Second-Party made an application for voluntary retirement under the Scheme on 13.05.2013
5. The Second Party was communicated the acceptance of his application under VRS by the company on 14.05.2013.
6. Rs. 1,00,000/- as advance payment towards VRS benefits were credited to the bank account of the Second Party by the company on 01.07.2013.

7. The Second Party was relieved from the services of the company on account of his opting for VRS on 31.07.2013.
8. After deductions as contemplated under VRS and after deduction of advance payment of Rs. 1,00,000/- the remaining amount of VRS benefits with his dues to the tune of Rs 979471/- credited to the bank account of the Second Party by the company on 05.08.2013.
9. The Second Party made an application for payment of gratuity.
10. The company has made payment of gratuity of Rs. 81806/- vide cheque no. 200484 dated 17.08.2013.
11. The Second Party filled in and submitted Form No. 19 to withdraw his Provident Fund.
12. The company has made payment of provident fund to the Second Party on 28.03.2014 of Rs. 184298 /- vide noFund Transfer
13. The Second Party has filled in and submitted a form of pension under EPS 1995.
14. The Second Party was issued service certificate on 31.07.2013

18) Thus, Petitioner Mr. Chetan Barot, submitted an application for voluntary retirement under the Scheme on 13 May 2013. The acceptance was communicated to him on 14 May 2013. He did not raise any protest nor made any attempt to withdraw from the VRS. He received an advance payment of Rs. 1,00,000/- on 1 July 2013. He continued to work for the entire month of July 2013, but never raised any objection as to why Rs. 1,00,000/- was credited in his account. He was relieved from services on 31 July 2013. After being relieved from services, he received sumptuous amount of Rs. 9,79,471/- towards VRS benefits. He again did not protest as to why such amount was credited in his account. He did not make any attempt to report for duties after 31 July 2013, nor submitted any letter protesting about the employer not allowing him to work. The above conduct would clearly indicate voluntary participation by Shri. Chetan Barot in the VRS.

19) Further conduct of Shri. Barot after 5 August 2013 would leave no manner of doubt about voluntary nature of participation by him in the Scheme. He made an application for payment of gratuity and gratuity of Rs. 81,806/- was paid to him on 17 August 2013. Shri. Barot thereafter filled and submitted Form No.19 for withdrawal of provident fund. Accordingly, provident fund of Rs. 1,84,298/- was paid to him on 28 August 2014. Shri Barot also submitted form for pension under Employee's Pension Scheme 1995.

20) Thus, Petitioner Shri. Chetan Barot was paid total amount of Rs. 13,45,575/- towards implementation of VRS. He accepted all the amounts without any demur and thereafter, belatedly raised demand for re-instatement.

21) Having displayed the above conduct of voluntary participation in the VRS before raising a demand for reinstatement, the further conduct displayed by the Petitioners during adjudication of References is even more telling. One of the aggrieved workman Shri. Tarunchandra Parmar, filed affidavit of his evidence, which is identically worded as affidavits filed by the Petitioners. He was subjected to cross-examination on 28 December 2017. He admitted his signature on the application for VRS and also admitted that he submitted the application to HR department. He also admitted the signatures of two attesting witnesses. He also gave admission in respect of document reflecting acceptance of his resignation application. He also admitted having received the service certificate and relieving order. He also admitted receipt of advance amount of Rs. 1,00,000/- and the fact that all the workers who opted for VRS scheme were paid the advance amount. He also admitted

submission of application for payment of gratuity as well as submission of form for withdrawal of provident fund. He gave a specific admission that *'it is true to say that I never objected to any of the above documents'*. He further gave admission that the documents were not blank when he signed them.

22) Thus, one of the aggrieved workmen Shri. Tarunchandra Parmar, gave emphatic admission about voluntary participation in the VRS. A common Advocate was engaged by Shri. Tarunchandra Parmar and by the Petitioners. The said Advocate filed a pursis in all the References for adoption of the cross-examination of Shri. Parmar in all the References.

23) The Petitioners did not dispute the factum of they signing the applications for VRS. They, however, raised the defence that their signatures were obtained on the applications by force and coercion. Since signatures on applications were not disputed, the burden of proving the defence of exertion of force/coercion was on the Petitioners. However Petitioners thoroughly failed to prove the said defence and in the Affidavits of Evidence, no evidence was led about exercise of any force on them for the signing the VRS applications. On the other hand, admissions given by Shri. Parmar, which are adopted by other Petitioners, clearly proved that the participation by the Petitioners in the VRS was voluntary.

24) Perusal of the impugned Awards passed by the Labour Court indicates that the entire evidence on record has been discussed in detail to arrive at the conclusion that the Petitioners voluntarily participated in the VRS. No attempt is made to show any perversity in the findings of

the Labour Court. The findings of the Labour Court are well supported by the pleadings and the evidence on record. By no stretch of imagination, can it be even suggested that there is any element of perversity in the findings recorded by the Labour Court. I therefore find no reason to interfere in the findings recorded by the Labour Court.

25) The conduct of the Petitioners, both before initiation of litigation and during pendency of litigation, is such that a clear impression is created about voluntary participation in the VRS by them. The case involves conduct on the part of the Petitioners in submitting resignations in pursuance of VRS, securing payments, not raising of any objection and thereafter turning around and raising demands for re-instatement. The Labour Court has rightly appreciated this position while rejecting the References.

26) In fact, this Court would have been justified in entertaining the present petitions in view of the authoritative declaration of law laid down by the Hon'ble Apex Court in **Ramesh Chandra Sankla & Ors. vs. Vikram Cement and another**⁴, in which the Hon'ble Apex Court has held in para 100 as under:

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. 'technical' Hence, even if it is held that a contention raised by the workmen has some force, this Court which again exercises discretionary

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and 136 of the equitable jurisdiction under Article 136 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 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.

27) Again in **Smt. Phulabai Prakash Pawar Versus. SKF India Ltd. Chinchwad Pune and Another⁵** this Court, after referring to the judgments of the Apex Court in **Man Singh** and **Ramesh Chandra Sankla**, has held in paras 14 and 17 as under :

14. The said judgment of the Apex Court in **Ramesh Chandra Sankla's** case (supra) was referred to by another two judge bench of the Apex Court in **Man Singh's** case (supra). A contention was sought to be raised on behalf of the workman in the said case that the direction of the High Court to deposit the amount received by him under the Voluntary Retirement Scheme alongwith interest at 7.5% p.a. for the reference to proceed was quite inequitable and illegal. The Apex Court held that the said submission made on behalf of the workman is fully answered by the judgment of the Apex Court in Ramesh Chandra Sankla's case (supra) and reference was made to paragraph 100 of the said judgment. The Apex Court thereafter concluded that the said case was squarely covered by the decision of the Apex Court in Ramesh Chandra Sankla's case (supra) and the contentions raised on behalf of the workman that the High Court had no jurisdiction for directing refund of the entire amount received by the Applicant as a condition precedent for proceeding, was rejected. The said judgments lay down the proposition of law that one who seeks equity must do equity and therefore one who calls in question the Voluntary Retirement Scheme after accepting the benefits must not retain the benefits and must refund the same.

17. In the instant case, the amount paid under the Voluntary Retirement Scheme is a lump-sum amount and graded payment depending on the years of service that a workman had put in. There were no different heads under which any amount was attributed, but was a lump-sum payment. Hence, the amount paid could not be divided or separated

under any heads. The Petitioner has accepted the Voluntary Retirement Scheme 2008 on account of which there is a severance of relationship as employer and employee but since the Petitioner is calling in question the said scheme and is contending that she still is a employee of the company, she cannot retain the amount she has received for leaving the company. The same cannot be permitted as one who claims equity must do equity. Hence equity demands that the Petitioner in the above Petition and the Petitioners in the companion matters do not retain the amount and deposit the amount as directed by the Courts below. In so far as the said aspect is concerned, the fact that the Petitioners in the letter dated 29.06.2009 have sought the difference in payment between the Voluntary Retirement Scheme 2008 and Voluntary Retirement Scheme 2009 is eloquent of the Petitioners real intention in resiling or retracting from the said Voluntary Retirement Scheme 2008. There is therefore substance in the contention urged on behalf of the Respondents that the complaint filed is as and by way of extracting more monies from the Respondent No. 1.

28) Thus in ***Ramesh Chandra Sankla*** and ***Man Singh***, the Apex Court has held that if an employee accepts the benefits under the VRS and then turns around to question correctness of implementation of VRS, such employee must be made to bring back all the benefits received by him towards the VRS. In similar circumstances in ***Shyam Kashinath Koli and Ors.*** (supra) this Court did not interfere with order passed by Industrial Court directing deposit of VRS compensation as a condition precedent for prosecution of the litigation.

29) Upon being queried, the learned counsel appearing for Petitioners has expressed inability to bring back the monies received under VRS by the Petitioners. In that view of the matter, the Petitions deserve to be dismissed on this ground alone. However, purely by way of indulgence, this Court has proceeded to consider even merits of the Petitions in absence of willingness to bring back the amount of VRS compensation.

30) Petitioners have strenuously contended that the VRS was nothing but a mass clearance scheme, where the Respondent has got a freedom for replacing the expensive workers with new, cheaper workers. In my view, the VRS is a scheme which is voluntary in nature. There is no compulsion to opt for the same. There may be variety of reasons why an employer may consider it appropriate to offer attractive compensation for reducing the workforce. Voluntary retirement may be aimed either at reducing the workforce or at replacing the existing workers. In the present case, it was Respondents defence that it had purchased new machinery and wanted to employ different set of skilled workmen to operate that machinery. In my view, the Court cannot go into the factors leading to the implementation of the VRS. This is because it is a voluntary option to be exercised by the employee to opt for retirement. Many times employer makes an attractive offer which becomes difficult for an employee to resist. It all depends upon the nature of the offer and the acceptance thereof by the employee. Once the offer is accepted and retirement is opted for, the employee cannot turn around and question the intention behind implementing the VRS.

31) In that view of the matter, this Court cannot go into correctness of the intention on the part of the Respondent in implementing the VRS. If indeed Petitioners are replaced by other cheaper workmen as alleged, the same would not *ipso facto* render the voluntary retirement of the Petitioners illegal.

32) It is also sought to be contended that permission from authorities were not obtained for implementation of VRS. Petitioners cannot be permitted to raise this issue. Their voluntary participation in the scheme

is proved. They cannot enjoy benefits of VRS and then question its legality contending that permission of some authority was not obtained for implementation of the Scheme. It is quite another thing that Petitioners have not demonstrated before this Court any specific provision of law under which permission of any statutory authority was necessary for implementation of the VRS.

33) It is also sought to be contended on behalf of the Petitioners that since more than 100 workers were retrenched, provisions of chapter V-B of the Industrial Disputes Act, 1947 would apply. It must be observed that this submission is canvassed only for being rejected. Chapter V-B is introduced in the Industrial Disputes Act for making special provisions relating to lay-off, retrenchment and closure in establishment in which not less than 100 workmen are employed. Cessation of service on account of acceptance of voluntary retirement does not amount to lay-off, retrenchment or closure. The issue of voluntarily retirement not constituting retrenchment has been decided by this Court in ***M/s. Essel World Leisure Private Limited (supra)***, in which it is held in para 33 as under:

33. The position in law is well recognised that, if an employee tenders resignation, it would amount to voluntary retirement, within the excluded category (a) of Section 2(00). Reliance placed by Mr. Bapat on the decision of the Supreme Court in the case of J. K. Cotton Spinning and Weaving Mills Company Ltd. Vs. State of U.P. and Others appears to be well founded. In the said case the Supreme Court was confronted with a question: when the service of an employee is terminated consequent upon the employer accepting the resignation voluntarily tendered by the employee, does the termination so brought about amounts to 'Retrenchment'? After adverting to the provisions of Section 2(s) read with Section 6-N of Uttar Pradesh Industrial Disputes Act, 1947, which were by and large similar to the provisions of Section 2(00) and Section 25-N of the Industrial Disputes Act, 1947, the Supreme Court answered the question in the negative by holding that when an

employee voluntarily tenders his resignation it is an act by which he voluntarily gives up his job and such a situation would be covered by the expression "voluntarily retirement" falling in excluded category (a) and not retrenchment and, thus, the provisions contained in Section 6-N of the said Act would not be attracted.

34) In my view therefore, the provisions of chapter V-B of the Industrial Disputes Act have no application to the present case, which involves cessation of service of the Petitioners due to opting for voluntary retirements.

35) I do not find much substance in submission canvassed on behalf of the Petitioners that the Labour Court has completely ignored affidavits of evidence filed by them. In my view, the entire evidence appearing on record needs to be appreciated as the whole. Firstly, the affidavits of evidence of Petitioners are not sufficient enough to draw an inference that participation in the scheme was involuntary or that any force/coercion was exerted on the Petitioners for opting for VRS. Secondly, emphatic admissions are given by one of the workmen, Shri. Tarunchandra Parmar. The said admissions are adopted by the Petitioners by submitting the pursis to that effect before the Labour Court. Thus, the Petitioners have thoroughly failed to discharge the burden of establishing force/coercion while submitting VRS Applications.

36) Considering the overall conspectus of the case, I am of the view that the Labour Court has rightly answered the References in the negative. The case clearly involves voluntary participation in the scheme by the Petitioners. None of them submitted even a single complaint about any force being exerted for participating in the VRS. There was

contemporaneous silence on the part of Petitioners when various payments were released in their accounts from time to time. The Petitioners have thereafter taken a *volte face* after securing payments flowing through the VRS. The Labour Court has rightly appreciated this conduct on the part of the Petitioners for declining them the relief.

37) Writ Petitions are thus devoid of merits. They are accordingly dismissed with no order as to costs.

[SANDEEP V. MARNE, J.]