



2026:AHC-LKO:13144-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 176 of 2024

Pradeshik Co-Operative Dairy Federation Limited
Thru. Managing Director

.....Appellant(s)

Versus

Virendra Kumar and 33 others

.....Respondent(s)

Counsel for Appellant(s)	:	Lalit Shukla
Counsel for Respondent(s)	:	Pradeep Kumar Tripathi

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

1. The instant Special Appeal preferred under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 assails the judgment and order dated 07.07.2024 passed by the learned Single Judge in Writ-A No. 2113 of 2024 (Virendra Kumar and Others vs. State of U.P. and others) whereby the writ petition of the private respondents was allowed after quashing the order dated 05.02.2024 by which the appellant rejected the representation of the private respondents seeking the difference of enhanced ex-gratia.

2. Sri Lalit Shukla, learned counsel for the appellants urged that the private respondents had opted for voluntary retirement and as per the scheme of voluntary retirement, after the amount which was to be paid to them at the relevant time, it precluded the private respondents from making any other claim.

3. It was further submitted that once the private respondents had opted for voluntary retirement and as per the scheme they could only get the amount which was pending and was indicated in the office order dated 30.09.2015 and no further amount was payable to the private respondents. Moreover, as per the office order dated 30.09.2015, any amount which was due and pending to the private respondents was to be paid by the different Milk Units/Union where the private respondents were last working and it was not for the appellant-Federation to liquidate such amount.

4. It was further urged that a similar issue was considered by a coordinate Bench of this Court in Special Appeal No. 379 of 2021 wherein it was held that the employees who had opted for voluntary retirement were not entitled to any further relief. It was further submitted that the said order was affirmed by the Apex Court as the SLP preferred by the appellant in the said case had been dismissed. Thus, the learned Single Judge erred in appreciating the language of the office order dated 30.09.2015 and 30.12.2022, which has resulted in miscarriage of justice, and for the said reasons, the judgment and order dated 08.07.2024 deserves to be set aside and the writ petition deserves to be dismissed.

5. Per contra, Sri Pradeep Kumar Tripathi, learned counsel for the private respondents has submitted that the respondents were entitled to the difference in the enhanced ex-gratia and the Federation itself by means of office order dated 30.09.2015 and 30.12.2022 clearly provided for such payments and this aspect has been appropriately considered by the learned Single Judge while allowing the writ petition vide judgment dated 08.07.2024.

6. It is also urged that the respondents had opted for voluntary retirement and the office order dated 30.9.2015 and 30.12.2022 addressed the concerns, inter alia, of such employees who had even opted for voluntary retirement. Thus, it is incorrect to state that since the writ-petitioners had opted for voluntary retirement, they were not entitled to the difference of enhanced ex-gratia.

7. Sri Tripathi also submitted that the reference made by the learned counsel for the appellant to Special Appeal No. 379 of 2021 was not germane as it related to a different issue altogether, pertaining to the payment of gratuity, which is not the subject matter here, and the observations made therein cannot come to the aid of the appellants.

8. It was also submitted that the writ-petitioners had already been granted other dues of leave encashment as well as financial increments for successfully completing 19 and 24 years of service, despite the fact that the writ-petitioners had opted for voluntary retirement. Now, for the payment relating to the difference in the enhanced ex-gratia, the appellant

has taken a different view while rejecting the representation of the writ-petitioners and this aspect was considered by the learned Single Judge who after considering the office order dated 30.09.2015 and 30.12.2022 allowed the writ petition and the said order cannot be said to be bad for this Court to interfere in its intra-court appellate jurisdiction.

9. The Court has heard the learned counsel for the parties and also perused the material on record.

10. Sri Shukla, learned counsel for the appellants could not dispute the fact that such financial service benefit which were payable to such employees who had completed 19 years and 24 years of successful service, were given even to those employees who had opted for voluntary retirement and the payment was made after the VRS.

11. Sri Shukla also could not dispute the fact that the office order dated 30.09.2015 clearly indicated that any outstanding which was payable to the employees including those who opted for voluntary retirement were entitled to receive the same. Reading of the two office orders dated 30.09.2015 and 30.12.2022 issued by the appellants does not in any manner indicate that any outstanding which is payable would not be payable to such employees who had opted for voluntary retirement.

12. It is in this context that outstanding relating to leave encashments and increments payable upon successfully completing 19 years and 24 years of service were also paid to the writ-petitioners. Thus, there can be no reason why the difference in the ex-gratia which was payable to the writ-petitioners could have been denied merely on account of the fact that they had opted for voluntary retirement.

13. There is another aspect to the matter i.e. the contention raised by the learned counsel for the appellants that as per the scheme of the voluntary retirement, the writ petitioners could not claim any other amount other than which was payable and relatable to the office order dated 30.09.2015. The said office order itself clearly refers to employees who had opted for VRS, hence, the said submission cannot be countenanced.

14. The scheme of voluntary retirement does not disclose any embargo on

payment of legitimate dues to the employees if they opted for voluntary retirement. If that would have been the situation, then there was no reason for the Federation to have paid the leave encashment and pecuniary service benefits upon completing 19 and 24 years of service to the writ-petitioners. Thus, the aforesaid contention advanced by the learned counsel for the appellants does not find favour with this Court.

15. Recently, the Apex Court in **Bihar Industrial Area Development Authority and Others v. Scope Sales Pvt. Ltd. and another: 2026 SCC OnLine SC 112** observed that there must be limited interference in an intra-court appeal unless the view of the learned Single Judge is perverse or demonstrably erroneous. Moreover, merely because another view is possible, this in itself should not be a ground to interfere.

16. This Court does not find that the aforesaid grounds are attracted in the instant case as there is no palpable error committed by the learned Single Judge in allowing the writ petition vide its judgment dated 08.07.2024. For the aforesaid reasons, the instant Special Appeal sans merit and is accordingly **dismissed**. There shall be no order as to costs.

(Jaspreet Singh, J) (Arun Bhansali, CJ)

February 17, 2026
Asheesh