

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8064 OF 2013

Sanjay Rambhau Bhadke,
Age-45 years, Occu-Labour,
R/o17, Santa Colony,
Fulsundar Mala, Burudgaon Road,
Ahmednagar

PETITIONER

VERSUS

Rajkumar Engineering Pvt.Ltd.,
Post Box No.125, Plot No.57 to 69,
Burudgaon Road, Ahmednagar

RESPONDENT

Mr.P.V.Barde, Advocate for the petitioner.

Mr.Ashok Patil h/f Mr.A.R.Joshi, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 12/08/2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner has come up with a case of forceful resignation thereby amounting to an unlawful termination.

3. The submissions of Mr.Barde, learned Advocate for the petitioner are as under :-

a. The petitioner joined Videocon India as a Steno-Typist on

15/05/1987.

- b. He was transferred to the respondent Establishment in 1991.
- c. On 01/11/1999, he tendered an unconditional simple resignation in his own handwriting and bearing his own signature.
- d. Resignation was accepted on the same date.
- e. Assurance was given by the respondent that after the petitioner repays an outstanding loan of a concerned Bank, the respondent would reinstate the petitioner in service.
- f. There is no written assurance given by the respondent.
- g. On 27/11/1999, the petitioner orally requested the respondent to permit him to join duties.
- h. He was not in employment from 12/11/1999 till 27/11/1999 and even thereafter.
- i. On 24/12/1999, he filed Complaint (ULP) No.106/1999 invoking Item 1 of Schedule IV of the MRTU and PULP Act, 1971.
- j. By judgment and order dated 24/08/2011, the complaint was dismissed by the Labour Court.
- k. He preferred Revision (ULP) No.77/2011 before the Industrial Court, which was dismissed by the judgment and order dated 06/12/2012.
- l. Model Standing Orders prescribe 1 month notice by the person resigning.
- m. Petitioner did not mention notice clause in the resignation letter.
- n. Petitioner did not move any application to the respondent/Management intimating his intention to withdraw the resignation dated 01/11/1999.
- o. Both the Lower Courts failed to note that forceful resignation

amounts to an illegal termination.

- p. This petition be allowed and the petitioner be reinstated with continuity and full back wages by quashing and setting aside the impugned judgments and by allowing this complaint.

4. Mr.A.V.Patil, learned Advocate has supported the impugned judgments. He submits that the petitioner was neither a Union Leader nor an elected Office Bearer of any Union. There were no demands pending. The Management had no grievance against the petitioner. Since he voluntarily resigned, the Management accepted his resignation letter. The contention that because a Union was formed, the respondent forcefully extracted a resignation from the petitioner, has not been proved before both the Lower Courts. The legal dues of the petitioner have been paid.

5. I have considered the submissions of the litigating sides and the conclusions drawn by the Labour Court and the Industrial Court based on the oral and documentary evidence on record. Aspect of vindictive and revengeful behaviour by the respondent against its employees has not been established before the Labour Court. The facts, as narrated by the petitioner himself, indicate that he did not move a single application immediately after the resignation was submitted so as to indicate that the resignation was extracted under

duress and coercion and that the petitioner had no intentions to resign. In the absence of any material even to remotely indicate that the resignation was extracted forcefully and the employee had no intention to resign, the contention of the petitioner was rightly rejected by the Labour Court as well as by the Industrial Court.

6. The resignation was in the petitioner's own handwriting, it bore his signature, it was unconditional and the same was not withdrawn by any such act of the petitioner which could indicate any semblance of a forceful resignation.

7. In the light of the above, I do not find that the impugned judgments could be termed as being perverse or erroneous. This petition is devoid of merits and hence dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)