

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 9713 OF 2015

Shri Dnyaneshwar Vishwanath Suryavanshi. .. Petitioner

Vs.

Shri Bhagyalaxmi Sahakari Pani

Puravatha Sanstha Maryadit.

.. Respondent

Mr.Govind Pawar, for the Petitioner.

***CORAM: N.M.Jamdar, J.
Monday 26 October, 2015***

PC. :

By this petition, the Petitioner challenges the orders passed by the Labour Court and the Industrial Court dismissing the complaint and the revision filed by the Petitioner by orders dated 1 March 2014 and 15 April 2015 respectively.

2. The Petitioner had filed a Complaint (ULP) No.63 of 2006 in the Labour Court at Sangli. According to the Petitioner, the Respondent committed unfair labour practices by terminating the services of the Petitioner by forcefully taking resignation from him on 7 September 2006. According to him inspite of notices to the Respondent, he was not taken back in service.

3. Both the Courts have rendered a finding of fact that the resignation was tendered voluntarily. The learned counsel for the Petitioner submitted that the resignation was accepted on the same day which is suspicious and also that the Petitioner had made complaint to the police authorities about the forceful resignation. These submissions cannot be accepted. The resignation was tendered on 7 September 2006, on 9 September 2006 change report was prepared and handed over to the Chairman on 10 September 2006. Both the Courts have recorded a finding that there was nothing wrong with accepting the resignation on the same day and the charge was also handed over. It is not possible to re-appreciate the evidence and come to the conclusion that resignation was not voluntary. The police complaint was filed two months thereafter in November 2006 and it cannot be said that it was filed immediately.

4. The learned counsel for the Petitioner then contended that as per clause 15 of the bye-laws, resignation could not have been accepted except for the approval of the competent authority. This argument is not reflected in the judgment of both Courts below. It is not even taken in the memo of the revision before the Industrial Court and it is for the first time being advanced in the Writ petition. This contention therefore, cannot be permitted to be taken when it was available to the Petitioner and was not specifically taken.

5. Even otherwise said clause 15 of the bye-laws refers to the power of competent authority to settle general service conditions ,

modifications of service conditions of the employees, their permanency, their removal from service or disciplinary action to be with the permission of the competent authority. This clause does not place any embargo that even voluntary resignations should be with the permission of the competent authority. Had such argument been made or such grievance was made, the Respondent would have had an opportunity to meet the same or take corrective action. Therefore, the view taken by both the Courts below cannot be termed as perverse so as to warrant interference in supervisory jurisdiction of this Court which is restricted in nature. The Writ petition accordingly cannot be entertained and is rejected.

(N.M.Jamdar, J.)