

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.24493 of 2004

ORDER:

In this writ petition, filed under Article 226 of Constitution of India, the petitioner seeks a writ of certiorari to quash the order dated 24.5.2004 in I.D. No.126 of 1997 passed by the Labour Court, Guntur; and a consequential declaration that the termination of the services of the petitioner as Time Office Clerk in first respondent company is illegal and arbitrary.

2. The facts leading to filing of this writ petition, in brief, are as follows. On 04.12.1992, the petitioner joined as Time Office Clerk in the first respondent company i.e., Ananthalaxmi Textiles (P) Ltd., Vadluru Post, Undrajavaram Mandal, West Godavari District. The petitioner was paid at Rs.1,500/- per month towards wages and he continued in the service up to 30.4.1996. On 01.5.1996, the first respondent orally informed that the services of the petitioner were terminated with immediate effect. The petitioner reported the matter to the Assistant Commissioner of Labour on 14.5.1996, who in turn addressed letter to the Management of the first respondent company on 23.5.1996 directing it to attend the meeting to be held on 31.5.1996. After receipt of the notice, the first respondent had obtained two letters from the petitioner; one as if he has addressed to the Assistant Commissioner stating that he is not attending the meeting, and another to the Management of the first respondent company tendering his resignation with effect from 31.5.1996. After realising the fraud played by the first respondent company, the petitioner sent notice to the second respondent, who in turn conducted meeting between the petitioner

and first respondent. On 13.8.1996, the second respondent informed the petitioner that the Management is not willing to accept that his resignation was under coercion. Having no other alternative, the petitioner approached the Labour Court, Guntur and filed I.D. No.126 of 1997.

3. The first respondent filed counter *inter alia* contending that as the petitioner himself resigned, he has no right to raise the dispute before the court. It is further contended that the petitioner left the service voluntarily and he was relieved on 31.5.1996 by accepting his resignation. It is also contended that the petitioner received the amounts towards full and final settlement of his service. When once the resignation was accepted, it is not open to the employee to withdraw the same or to say that it is not voluntary. Therefore, the petition is liable to be dismissed with costs.

4. On behalf of the petitioner, W.W.1 was examined and Exs.W1 to W7 were marked. On behalf of the first respondent, M.W.1 to M.W.3 were examined and Exs.M1 to M6 were marked. Basing on the oral, documentary evidence and other material available on record, the Labour Court arrived at a conclusion that the petitioner himself voluntarily resigned and dismissed I.D. No.126 of 1997. Hence, the present writ petition is filed.

5. The crucial question that falls for consideration is whether the first respondent played fraud and obtained resignation letter of the petitioner.

6. The material available on record clearly reveals that conciliation proceedings before the second respondent were closed on 30.5.1996. The contention of the first respondent is that

the petitioner voluntarily resigned from the service and accepted the amounts towards full and final settlement. On the other hand, the contention of the petitioner is that the first respondent obtained his resignation by playing fraud. A perusal of Ex.M5 clearly reveals that the petitioner received money from the first respondent on 07.6.1996 towards full and final settlement. If really the first respondent had obtained resignation of the petitioner by playing fraud on 30.5.1996, what prompted the petitioner to receive the amount from the first respondent towards full and final settlement in the month of June, 1996. The petitioner has not put-forth any explanation on this aspect. Ex.M1 is the resignation letter of the petitioner dated 30.5.1996. Ex.M4 is the entry in acquittance register. The recitals of Exs.M1 to M6 fully support the version of the first respondent. A perusal of the record also reveals that the petitioner was on leave in the month of May, 1996. If really the version put-forth by the petitioner is true and correct, what prevented him to address letter to the second respondent stating that on 30.5.1996, the first respondent had obtained his resignation by playing fraud. Further, the petitioner may even represent the same before the second respondent at the time of conducting conciliation proceedings. The possibility of taking this type of pleas in order to gain sympathy of the court cannot be ruled out completely.

7. The petitioner worked in the first respondent company for a period of three years. The Labour Court, after considering the oral and documentary evidence available on record, arrived at a conclusion that the contention of the petitioner that the first respondent had obtained his resignation by playing fraud, is not supported by any material much less legally admissible material. On the other hand, the stand of the first respondent that the

petitioner himself submitted resignation is supported by the documentary evidence placed before the Labour Court.

8. The stand of the first respondent that the petitioner himself submitted resignation and received amounts towards full and final settlement is supported by the documentary evidence placed before the Labour Court. The Labour Court, after having thoughtful consideration to the oral and documentary evidence available on record, rightly rejected the contention of the learned counsel for the petitioner that the first respondent obtained resignation of the petitioner by playing fraud. The findings recorded by the Labour Court are supported by material available on record. Viewed from factual or legal aspects, there are no reasons to interfere with the impugned order passed by the Labour Court.

9. In the result, the writ petition is dismissed. Miscellaneous petitions if any pending in the writ petition shall stand closed.

T.SUNIL CHOWDARY, J

February 26, 2016.

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