

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.10.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.20043 of 2011
and
M.P.No.1 of 2011

The Management of Kumararani Meena Muthiah
College of Arts and Science C-ed,
Rep. by its Principal,
No.4, Crescent Avenue Road,
Gandhi Nagar, Adayar,
Chennai - 600 020.

.. Petitioner

Vs

1.Geetha Balakrishnan

2.Presiding Officer,

II Additional Labour Court,
Chennai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India, for issuance of Writ of Certiorari,
calling for the records relating to the award proceedings of the
2nd respondent in ID.No.208 of 2008 dated 22.07.2010 and quash
the same.

For Petitioner : Mr.K.Sukumaran

For Respondents : Mr.S.Haja Mohideen Gisthi (for R1)
R2 - Labour Court

O R D E R

The petitioner has aggrieved by the order of II Additional Labour Court in I.D.No.208 of 2008 has approached this Court by way of writ of certiorari, calling for the records relating to the award proceedings of the Presiding Officer, II Additional Labour Court, Chennai in I.D.No.208 of 2008, dated 22.07.2010 and to quash the same.

2.The brief fact of the petitioner's case is as follows:

The learned counsel appearing for the petitioner states that the petitioner college is a reputed college and the 1st respondent served as a Librarian in the petitioner's college from 07.07.1997. The petitioner states that the 1st respondent met with an accident and was very irregular and during March 2007 stock verification of library was done with the help of one Mr.Srinivasan and found that many books were missing. Then on due course the 1st respondent voluntarily submitted her resignation wide resignation letter on 25.06.2007 through courier and the same was received by the petitioner on 29.06.2007 which is read as follows:

"For better prospects, I hereby resign from the service of your institution. I thank you very much for having given me an opportunity to serve you for so long.

Since I am not well, I am sending this letter through courier service. I request you to kindly arrange for necessary formalities to relieve me and for returning back to me, my original certificate being kept in the custody of the college".

3.The learned counsel for the petitioner submitted that the petitioner's college accepted the resignation of the 1st respondent and relieved her from the post of Librarian and issued the relieving order cum service certificate on 19.10.2007. He further stated that though she voluntarily resigned her job, she submitted a representation to the Labour Officer-3, Kuralagam Building, Chennai and on which the petitioner was asked to submit the reply and the same was given on 08.01.2008. The claim of the 1st respondent was rejected by the Labour Officer, Kuralagam on 04.02.2008. The learned counsel further state that the 1st respondent aggrieved on the said order filed petition under Section 2A(2) of Industrial Dispute Act, 1947 in I.D.No.208 of 2008 before the 2nd respondent Labour Court, Chennai-104, to set aside the non employment as illegal and for reinstatement of duty with back wages, gratuity of service and other attendance benefits.

4.The learned counsel for the petitioner stated that the 2nd respondent in the matter of dispute between workman and management ought not to have drawn adverse influence over non examination of the Secretary of the College since the 1st respondent submitted a resignation to the date of retirement is bad in law. The learned counsel stated that the lower Court erred in giving finery that the 1st respondent was dismissed from service without seeking any explanation which is arbitrary. The learned counsel submitted that in view of the above that the resignation is voluntarily done and the Court below erred in the Order dated 22.07.2010 and to set aside the same.

5.The counter affidavit filed by the 1st respondent is as follows:

The 1st respondent entered into service with the petitioner College on 07.07.1997 as a Librarian and that the 1st respondent during her ten years of service rendered unblemished record of service and not even a single official memo was issued and on the contrary her good works were confirmed through the Remarks of verifying lecturers/staff and the annual stock taking completion reports with the signature of the Principal with acknowledgment. The learned counsel for the 1st respondent submits that she met with a road accident resulting in bone fracture and has been immobile for nearly 12 weeks. The same was formally informed by the 1st respondent Principal / Management, through a letter with the original advice of the attending doctor. The 1st respondent stated that till March 2006 there were no books missing from the library and it happened only when the new Librarian was managing the library while the 1st respondent was undergoing treatment in the hospital, missing books were noticed and no memo was issued nor any enquiry was conducted by the petitioner college on his behalf.

6.The learned counsel further argued that the 1st respondent was threatened and compelled by the petitioner to resign from the job. The prejudiced mind of the petitioner is evident from the fact that nothing was done on the resignation letter, till the respondents, on a rethink and with a desire to get justice, explained the circumstances and categorically informed the petitioner through a letter dated 07.07.2007, followed by a reminder letter dated 30.07.2007, and these two letters will say by itself that the resignation is not voluntary and also sought reinstatement. The learned counsel further argued that the 1st respondent was 58 years of age when the issue was raised and in the resignation letter it was stated that "resigning for better prospects" and face of it can be inferred that at 58 years there was neither a need nor scope of getting a prospective job

elsewhere. Hence voluntary resignation does not arise learned counsel further stated that the Labour Court clearly held that the 1st respondent resigned her job voluntarily, it is the duty of Principal/Management of the 1st respondent College to call for explanation about the missing books, but they failed to do that.

7.The learned counsel for the 1st respondent vehemently submitted that even as per the affidavit of the petitioner that the resignation letter was sent by the 1st respondent on 25.06.2007 and duly received on 29.06.2007, but the relieving order was issued on 20.06.2007 itself which means prior to the resignation letter received and the relieving order was issued. It clearly proves predetermined acts of the termination from the service by the petitioner. Therefore, he prays for dismissal of the writ petition.

8.I heard Mr.K.Sukumaran, learned counsel appearing for the petitioner and Mr.S.Haja Mohideen Gisthi, learned counsel appearing for the 1st respondent and perused the entire records.

9.Admittedly, the 1st respondent was joined in the service of the petitioner College on 07.07.1997 and she put up more than 10 years of service. It is not the case of the petitioner College that during her 10 years service, she has not committed any mistake or the petitioner College has not issued any single memo to the 1st respondent for her unsatisfied service.

10.It is the case of the petitioner is that during March 2007, on stock verification in the Library done with the help of one Mr.Srinivasan, at that time only it was found that so many books were missing in the Library. When it was noticed by the petitioner/College, it was alleged by the petitioner/College that immediately the 1st respondent employee has submitted a resignation on 25.06.2007 which was received by the petitioner College on 29.06.2007.

11.Therefore, when the 1st respondent employee has resigned her post on 25.06.2007, the 1st respondent having no right to approach the Labour Court and the 2nd respondent Labour Court have no authority for passing order or setting aside the order and directed the petitioner College to reinstate the 1st respondent employee, since when the 1st respondent herself has voluntarily resigned that no question of reinstatement of the 1st respondent into service was not arosed.

12.It is the case of the 1st respondent that when the 1st respondent was joined in the petitioner College as Librarian on 07.07.1997, during her 10 years of service, she rendered unblemished record of service and during her service, not even a single memo was issued to the 1st respondent by the petitioner College, but on the contrary, the 1st respondent's good work were appreciated by the Lecturers and Staffs of the petitioner College.

13.When the petitioner/College found on the inspection that there was so many books were missing in the Library, it is the bounden duty of the petitioner's College to issue notice to the 1st respondent by calling explanation about the missing of books, but without doing so, they simply stated that the 1st respondent herself was submitted her voluntary resignation on 25.06.2007, which was received by the petitioner College on 29.06.2007, the acceptance letter dated 19.10.2007 was given by the petitioner College, by relieving the 1st respondent from her service from 20.06.2007.

14.Therefore, it is made clear that the 1st respondent put forth her case that the petitioner College has forcibly obtained voluntary resignation from the 1st respondent on 25.06.2007, which was received on 29.06.2007, but without calling explanation from the petitioner in respect of missing books and accept the same. Therefore, the very act of the petitioner/College is not only to harass but it is open threaten to the 1st respondent from continuing in the college as Librarian.

15.When the petitioner College alleged that this 1st respondent was submitted her resignation letter voluntarily on 25.06.2007 which was duly received on 29.06.2007 by the College, why the college has not issued notice calling the 1st respondent employee for giving explanation about the missing of the books, whether at the time of inspection done in the month of March 2007 or immediately after submitting the resignation letter on 25.06.2007. Therefore, it made clear that the petitioner College has committed grave mistake only with an aim to harassing the 1st respondent who served in the college for more than 10 years without any remark, but served with the appreciation of the college.

16.Apart from this, when this Court has gone through the relieving order dated 19.10.2007, it is makes clear that there is no reference in respect of tendering the voluntary resignation letter dated 25.06.2007 by the 1st respondent, but it is simply says as follows:

"RELIEVING ORDER CUM SERVICE CERTIFICATE

Mrs.Geetha Balakrishnan, M.A., M.L.I.S., served as a Librarian in this college from 07.07.1997 to 19.06.2007 and she is relieved from duty on 20.06.2007."

17.But, the petitioner College alleged that the 1st respondent employee had voluntarily submitted her resignation on 26.06.2007. Thus being the case, why the petitioner College had not mentioning voluntary resignation in the relieving order and what reason the 1st respondent was relieved from her service from 20.06.2007. Therefore, it is made clear that the petitioner College had concocted the false story before the Court.

18.Therefore, the 2nd respondent Labour Court analysed and discussed the petitioner's case in a proper manner and allowed the dispute filed by the 1st respondent in I.D.No.208 of 2008 and directing the petitioner College to reinstate the 1st respondent in the service with continuity of service and pay back all service benefits to the 1st respondent from the date of removal from the service till her superannuation.

19.Hence, this Court finds that there is no necessity arosed for the interference in the order in I.D.No.208 of 2008 dated 22.07.2010 passed by the 2nd respondent. Accordingly, the writ petition is liable to be dismissed.

20.In the result:

(a) this writ petition is dismissed, by confirming the order in I.D.No.208 of 2008, dated 22.07.2010 passed by the 2nd respondent Labour Court;

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(b) the petitioner College is directed to comply the order of the Labour Court passed in I.D.No.208 of 2008, dated 22.07.2010 within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vs
To

The Presiding Officer,
II Additional Labour Court, Chennai.

+1 cc to M/s.S.Haja Mohideen Gisthi Advocate sr 73753

W.P.No.20043 of 2011
and
M.P.No.1 of 2011

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