

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Appeal No. 140 of 2018

- Bharat Aluminium Company Limited, Through General Manager, BALCO, District Korba (C.G.)

---- Appellant

Versus

1. S.S. Ali, R/o, Kanka Azad Road, Bhurhanpur (M.P.)
2. President, Industrial Court of Chhattisgarh, Mahanadi Khand, Near Dau Kalyan Singh Bhavan, (Mantralaya), Raipur (C.G.)
3. Presiding Officer, Labour Court, Bilaspur (C.G.)

---- Respondents

For Appellant	:	Shri N.K. Vyas, Advocate
For Respondent No.1	:	Shri Animesh Verma, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Prashant Kumar Mishra, Judge

Judgment on Board

Per, Ajay Kumar Tripathi, Chief Justice

13.08.2018

1. Heard counsel for the Appellant and the private Respondent No.1
2. The learned Single Judge vide order dated 16.01.2018 has dismissed the writ application of the Appellant refusing to interfere with the order both by the Labour Court as well as the Industrial Court in appeal.
3. The issue raised by the private Respondent No.1 before the Labour Court was that his conditional resignation letter tendered by him could not be treated as a letter of resignation and therefore its acceptance after more than two months while the private Respondent was on medical leave amounts to illegal retrenchment and therefore he ought to be and was ordered to be reinstated in service with backwages.
4. The learned Single Judge in his impugned order dated 16.01.2018 has also taken note of the fact as to how the present Appellant who was petitioner before the Writ Court tried to raise preliminary issues and objections which on being negated and dismissed by the Labour Court was assailed before the Appellate

Industrial Court which remanded the matter back to the Labour Court for deciding all the issues on merit.

5. All told, it is reflected that the Appellant-Company instead of providing evidence against the relief prayed by the private Respondent as to the issues so raised in relation to his illegal acceptance of conditional resignation, mostly raised legal issues and in absence of any tangible evidence against the evidence produced by the private Respondent, the legal defence so put up having failed, the relief which was granted to the private Respondent was not found to be suffering from any legal infirmity even by the Industrial Court in appeal.
6. There are concurrent findings both by the Labour Court as well as the Industrial Court in appeal, which on judicial review by the writ Court did not yield any result. The argument again sought to be raised on behalf of the Appellant is on the so-called legality of the acceptance of the resignation letter of the private Respondent. This question cannot be a ground for interference in the writ appeal because the findings of fact with regard to the conditional letter of resignation and the circumstances and the timing thereof have already been held factually in favour of the employee after due consideration of evidence, tendered mostly on behalf of the private Respondent and not the Company.
7. We have also gone through the letter of resignation which has been brought on record as Annexure-A/2 by the Appellant. A reading of the same would show that it is more a bag full of woes which have been expressed by the private Respondent being dejected and frustrated in not being given the rightful promotion and break in life. May be as a spirited kind of employee he also offered certain suggestions as to how work of one

department could be improved. The last sentence of the said letter states that if the grievances are not redressed then the letter may be treated as resignation.

8. We have not come across any material and evidence to show on behalf of the Appellant-Company that the issue so raised by the private Respondent especially with regard to non-grant of promotion or right of atleast consideration for promotion etc. has been found to be unfounded. They cannot use such letters of grievance and expression of frustration to get rid of an employee, whom they are uncomfortable with.
9. The finding of facts being loaded against the Company, in the manner they have acted or used the letter which was not a letter of resignation by any impassioned reading of the same, the decision of the two inferior Labour Courts as well as the findings including the finding of law recorded by the learned Single Judge cannot be said to be erroneous.
10. We do not find any error in any of the decisions including the decision of the learned Single Judge dated 16.01.2018 which requires rectification in appeal.
11. The appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Prashant Kumar Mishra)
Judge