



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.03.2018
DELIVERED ON : 27.06.2018

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD).No.22594 of 2016

A.Selvi

... Petitioner

Vs.

1. The Labour Court,
Tirunelveli.

2. H.Sivaramakrishnan,
Managing Director,
Sri Sudharsan Hospital,
No.4, Salai Street,
Vannarpettai,
Tirunelveli - 627 003.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order passed by the first respondent in I.D.O.P.No.20 of 2016 on his file dated 31.08.2016 and quash the same consequently direct the second respondent to reinstate the petitioner in service with full backwages from 31.05.2014 with interest at the rate of 18%.

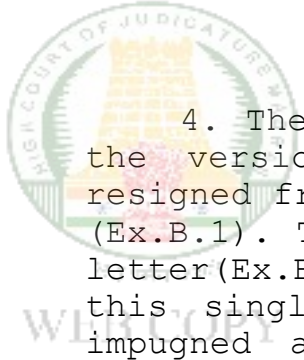
For Petitioner : Mr.D.Rajkumar
For R-2 : Mr.T.Selvakumaran
For R-1 : Labour Court

O R D E R

The Writ petitioner herein was working as a Scavenger in the second respondent hospital since 2009. Alleging that she had been unlawfully terminated from service, she filed I.D.O.P.No.20 of 2016 before the Labour Court, Tirunelveli. By the impugned award dated 31.08.2016, the said I.D.O.P., was dismissed. Challenging the same, this Writ petition has been filed.

2. Heard the learned counsel on either side.

3. The case of the Writ petitioner is that she was working in the second respondent hospital till 31.05.2014 and that thereafter she was not allowed to do any work. No formal order of termination was ever issued. No enquiry was conducted.



4. The Labour Court had non suited the petitioner by believing the version of the Management that the petitioner voluntarily resigned from her employment by submitting a letter dated 10.04.2014 (Ex.B.1). The petitioner had questioned the genuineness of the said letter(Ex.B.1). The entire award of the Labour Court is founded on this single document. If the said document is disbelieved, the impugned award will have to be necessarily set aside and the petitioner will have to be reinstated in service with backwages.

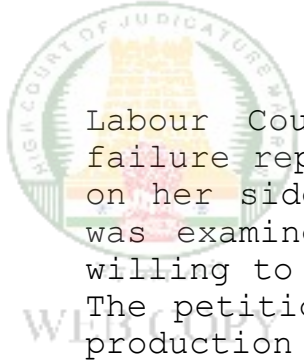
5. The Management had filed its counter affidavit. The learned counsel appearing for the Management submitted that the impugned award is a well reasoned one and that the same deserves to be sustained.

6. This Court carefully went through the materials on record. It is seen that the Writ petitioner was employed in the second respondent hospital from 28.10.2009. She was earlier dismissed from service by the second respondent and the matter was amicably resolved by virtue of the conciliation proceedings in Na.Ka.No.A/483/2013 dated 18.10.2013 on the file of the labour officer. The petitioner was reinstated in service with backwages.

7. The case of the petitioner is that she was working till 31.05.2014 and that thereafter she was not allowed to do work. The case of the Management is that the Writ petitioner voluntarily resigned and this is established by Ex.B.1 Letter dated 10.04.2014. This Court went through the contents of the said Ex.B.1. It is a letter of resignation. If this letter is accepted as genuine, then the impugned award has to be sustained. If this letter is disbelieved, the award will have to be set aside and the relief of reinstatement with backwages will have to be granted to the petitioner.

8. As already pointed out, the petitioner was already dismissed from service as some allegations were made against her by the Management. The issue was however resolved during the conciliation proceedings. Thereafter, the petitioner was taken back into service. Thus, the petitioner can be said to be a person who is already experienced in litigation. When she moved the Labour officer claiming that she had been unlawfully terminated, the Management informed the conciliation authority that they had not thrown out the petitioner from service and that it was the petitioner who voluntarily resigned her job. Thus the theory of resignation was not projected for the first time before the Labour Court. It was the stand of the Management right from the inception. In fact during her examination, the petitioner was confronted with the said resignation letter. The petitioner admitted the signature found in Ex.B.1. She also fairly admitted that her signature was not obtained in any blank paper. The petitioner had not established that Ex.B.1 was fraudulently obtained from her.

9. In such circumstances, the onus to establish that she did not resign her job was entirely on the petitioner. Before the



Labour Court, the petitioner examined only herself. Except the failure report of the conciliation authority nothing else was marked on her side. On the side of the Management, the hospital official was examined as a witness. The said witness stated that they are willing to produce any document that may be directed to be produced. The petitioner admittedly did not file any application for causing production of documents such as Attendance Register. The contention of the petitioner that her resignation letter was not formally accepted by the Management was rightly rejected by the Labour Court by pointing out that by not allowing her to work in the hospital, the same stood accepted.

10. This Court is examining the impugned award while exercising its jurisdiction under Article 226 of the Constitution of India. This Court cannot act as an appellate authority. The Labour Court after a thorough examination of the evidence on record has given a categorical finding that Ex.B.1 is a genuine document and that the petitioner had voluntarily resigned her job and that therefore, the I.D.O.P., instituted by her is not maintainable. This finding of fact is perfectly reasonable and correct. No case has been made out for interfering with the reasons assigned by the Labour Court. As already pointed out, the petitioner is a person who already had a dispute with the Management in the year 2013. In this background, it is quite possible that the petitioner for reasons best known to her, chose to resign from her job. Probably she had second thoughts thereafter. But then, it is not necessary for the Management to reconsider its decision after the employer/workmen relationship got snapped. Once an employee resigns her job and the resignation is accepted by the Management either expressly or impliedly, the relationship between the two snaps. It is not thereafter open to the employee to knock the doors of the Labour Court complaining that the termination is unlawful. A person who has voluntarily resigned her job cannot obviously contend that she has been unlawfully terminated. There is absolutely no merit in this Writ petition.

11. The Writ petition stands dismissed, accordingly.

12. At this juncture, the learned counsel appearing for the petitioner pointed out that Provident Fund account was being maintained in respect of the Writ petitioner. The Management is directed to settle the Gratuity amount payable to the petitioner. The Management is also directed to forward the relevant proposals to the Provident Fund Organization. This shall be done within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-II)

/True copy/



To

The Presiding Officer,
Labour Court,
Tirunelveli.

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ORDER
MADE IN
W.P. (MD).No.22594 of 2016
27.06.2018

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RAM/VR/SAR 2/06.07.2018/4P/2C