

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13621 of 2011

The Management,
Thiru Arooran Sugars Limited,
Unit 1A Kollumangudy Post,
Nannilam Taluk,
Thiruvarur District,
Rep. by its General Manager (Legal & Secretarial).
..Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Cuddalore.

2.V.Athmayogi,
S/o. Vajilingam,
2/141 Main Road,
Arichandrapuram, Vadapathimangalam Post,
Thiruvarur District. ..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 1st respondent in ID.No.53 of 2001 and quash its award dated 21.12.2010.

For Petitioner : Mr.Anand Gopalan
For M/s.T.S.Gopalan & Co.,
For Respondents : Labour Court [R1]
No Appearance for [R2]

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O R D E R

The award dated 21.12.2010, passed by the first respondent in ID.No.53 of 2001, is under challenge in the present writ petition. The writ petitioner is the management - Thiru Arooran Sugars Limited.

2. The learned counsel for the writ petitioner states that the second respondent was an employee of the writ petitioner-management and on account of certain allegations, he was placed

under suspension by the management on 15.04.2000. However, the second respondent employee submitted a letter of resignation on 16.04.2000. The resignation letter submitted by the employee was accepted by the management on the same day i.e., 16.04.2000 itself. Pursuant to the acceptance of the resignation letter by the management, the settlement was entered in to between the management and the employee under Section 18(1) of the ID Act on 16.04.2000.

3. The second respondent signed the 18(1) settlement, accepted the terms and conditions and received all the benefits and left the services. After relieving from the services of the petitioner-management, the second respondent sent a letter to the management stating that the letter of resignation was obtained forcibly and therefore, the acceptance of resignation is void. Subsequently, the industrial dispute was raised in ID No.53 of 2001 and the Labour Court passed an award granting reinstatement with continuity of service and denied the benefit of back wages. Challenging the said award, the management is constrained to file the present writ petition.

4. Though notice was served to the second respondent, non appeared for the second respondent.

5. The learned counsel for the writ petitioner made a submission that the letter of resignation submitted by the second respondent-employee was accepted and thereafter, the employee signed the settlement under Section 18(1) of the ID Act. After signing the 18(1) settlement, the second respondent received all the benefit as per the terms and conditions of the settlement and therefore, subsequent letter is in violation of the settlement and an afterthought. The resignation was submitted on 16.04.2000 and benefits were received by the second respondent by signing the receipt on 31.05.2000. Thus, there was a gap of about 1 1/2 months and after receiving all the benefits as per the terms and conditions of the 18(1) settlement, the second respondent sent a letter to the management stating that the letter of resignation was obtained by coercion. Thus such a contention is an afterthought one and erroneously accepted by the Labour Court.

6. The Labour Court made a finding that, the management has not clearly proved that the workman submitted Ex.M3 voluntary resignation letter and it is not clearly proved that Ex.M3 was accepted by the management in accordance with the standing orders or rules or regulations of the management. The Labour Court was of an opinion that the management has to establish that the resignation was submitted voluntarily. However, the management had established before the Labour Court that the resignation was submitted on 16.04.2000, which was accepted on

the same day, however, the employee concerned received the benefits as per the 18(1) settlement on 31.05.2000, after a lapse of about 1 1/2 months.

7. Thus in the event of any coercion or force during the relevant point of time at the time of submission of resignation letter, the employee ought to have raised the ground immediately. Contrarily, he sent a letter in a casual manner after receiving the settlement on 31.05.2000, which was acknowledged by the employee by issuing a receipt. Therefore, the very finding of the Labour Court is in contradiction with the facts and circumstances and there is no possibility of such coercion with reference to the date of resignation as well as the receipt of benefit by the employee after a lapse of 1 1/2 months from the date of resignation. Thus, the employee though fit to receive all the benefits and thereafter raised the dispute in order to avail further benefit including reinstatement and continuity of service.

8. An employee is of an opinion that the resignation was obtained by coercion, then objections ought to be raised immediately or within a reasonable period of time. However, here is the case, where the resignation submitted which was accepted, 18(1) settlement was entered in to which was signed by the employee and as per the terms and conditions of the 18(1) settlement, the employee received all the benefits and issued a receipt to that effect and thereafter sent a letter that resignation was obtained by way of coercion. Such a conduct of the employee cannot provide a cause of action to raise an industrial dispute. Thus the opinion of the Labour Court that the Management should prove that the voluntary resignation was not obtained by coercion is not in consonance with the established principles.

9. Under these circumstances, the very finding in this regard is in contradiction to the facts and circumstances and the finding stating that the management should prove that the resignation was not obtained by coercion is against the established principles and for these reasons, the award of the Labour Court is perverse and accordingly, the award dated 21.12.2010, passed in ID No.53 of 2001, is quashed. However, it is brought to the notice of this Court that during the pendency of the writ petition, the second respondent was reinstated in service in the year 2011 and he is continuing in service. In view of the fact that the benefit of reinstatement has already been granted by the management itself, the other benefits including the continuity of service cannot be granted.

10. Accordingly, the Writ petition stands allowed. No Costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

1.The Presiding Officer,
Labour Court, Cuddalore.

+1cc to M/s.T.S.Gopalan & Co., Advocate, SR.No.93638.

W.P.No.13621 of 2011

RSV(CO)
CSR(19/12/2019)



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