

26.06.2024
Ct. 23
D/L 135
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 25413 of 2023

**Satish Kumar Shaw
-Vs-
Coal India Limited & Ors.**

Mr. Abhinaba Dan,
Ms. Ankita Mukherjee

.... for the petitioner

Mr. Shiv Shankar Banerjee

... for the respondent nos. 1 to 3

Mr. Krishnendu Bhattacharya,
Mr. priyankar Ganguly,
Ms. Shalini Bairagi,
Ms. Neelanjana Ghorui

... for the respondent no. 2

The petitioner had joined as Management Trainee (Mining) under Coal India Limited (in short, 'CIL'). The petitioner while working as Manager, Debeswari Colliery under Eastern Colliery Ltd. (in short, 'ECL') a subsidiary of CIL had tendered his resignation allegedly under immense mental pressure from his superiors. The petitioner also says that the mental trauma, to which the petitioner was subjected to, had compelled the petitioner to remain hospitalized. After the treatment, the petitioner gave a re-thought regarding his resignation and wanted to withdraw the same for being reinstated in the service of ECL. It is the case of the

petitioner that despite such prayer, the petitioner has neither been allowed to join nor has he been communicated anything about his reinstatement. The petitioner, therefore, seeks an order directing CIL/ECL authority to reinstate the petitioner in service.

On behalf of the CIL, it is submitted that the petitioner after following the procedure for tendering resignation as applicable in case of the employees of ECL had tendered his resignation, which was duly accepted and acted upon. There was no violation of principles of natural justice. The petitioner was also not compelled to hold on to his decision to resign from the service of ECL as he had the option to withdraw the resignation before the same was accepted and acted upon. After acceptance of the resignation, the petitioner has been paid all his terminal benefits. The CIL says that there is no employer – employee relationship subsisting at the present and as such the writ petition is, therefore, not maintainable. In support of this contention a judgment of the Hon'ble Supreme Court reported in **2003 (5) SCC 455 (North Zone Cultural Centre v. Vedpathi Dinesh Kumar)** relied upon.

On behalf of the ECL, it is submitted that the petitioner was required to follow a particular procedure for tendering the resignation. The petitioner had given the requisite notice with a notice period of 84 days. The petitioner also appeared before the Exit Committee and

stuck to his decision to tender resignation despite being made aware of the consequences and given an opportunity to withdraw his resignation at that stage. The petitioner ultimately stood by his decision to resign which was duly accepted by ECL and concurred by CIL. There is as such no scope of reopening the issue to reinstate the petitioner in service. The ECL says that the writ petition is, therefore, not maintainable.

After hearing the parties and considering the materials on record, I find that the resignation was tendered by the petitioner on 22nd March, 2023 and had been accepted on 30th June, 2023 after a considerable gap of time when the petitioner could have reviewed his decision to tender resignation. The resignation letter does not speak anything about his alleged mental torture by the superior officers. On the contrary it is based on the premise that the petitioner intends to advance his career on different field on finding that his career advancement in ECL was not encouraging. The resignation was accepted after the petitioner appeared and made his submissions before the Exit Committee which have been duly recorded. The petitioner also does not dispute these facts but accepts the same as will appear from the petition. There is also not much delay between the time when resignation was tendered i.e. 22nd March, 2023 and communication of the acceptance of the resignation that took place on 1st

July, 2023. The petitioner has also voluntarily received his terminal benefits. The petitioner, therefore, cannot be at this stage permitted to turn around and ask for reinstatement. The employer-employee relationship which is based on a contract stood snapped and cannot also be re-instituted. The legal position is absolutely clear as will appear from the judgments of the Hon'ble Supreme Court as well as various High Courts including that of this Court some of which are as follows, **2024 SCC OnLine Sc 647 (Shriram Manohar Bande vs. Utkranti Mandal and Others)** and **2023 SCC OnLine Cal 2935 (Bishnu Hari Jana vs. State of West Bengal and Others)**. After tendering resignation, the employee concerned gets a sufficient time to re-think on his decision till the same is accepted. Once the resignation is accepted, the petitioner cannot be allowed to reinstate in future.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)