IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 117 OF 2017

Suhas Sudhakar Gokhale ... Appellant.
Versus
M/s. Cormpton Greaves Ltd. ... Respondent.

Mr. Vijay Vaidya a/w. Mr.Mahendra Agvekar, Ms.Shraddha Chavan, for the Appellants.
Mr. Vikram Sathaye a/w. Mr.Hrishikesh S. Shinde, for the sole-Respondent.

AND
SECOND APPEAL NO.119 OF 2017

Pravin Vasant Deshpande ... Appellant.
Versus
M/s. Cormpton Greaves Ltd. ... Respondent.

Mr. Vijay Vaidya a/w. Mr.Mahendra Agvekar, Ms.Shraddha Chavan, for the Appellants.
Mr. Vikram Sathaye a/w. Mr.Hrishikesh S. Shinde, for the sole-Respondent.

CORAM : SHARMILA U. DESHMUKH, J.
DATE : MARCH 04, 2024

P. C.:

1. Being dissatisfied by the judgment dated 27th July, 2016 by which the Appellate Court partly allowed the Appeal declaring that the resignation letter dated 2nd April, 2000 was not voluntary and was obtained by force and as such was null and void and directed the Respondent to pay compensation equivalent to two years salary on the basis of pay and allowances drawn by the Appellant as on 2nd April, 2000, the original-Plaintiff is before this Court. For the sake of convenience, the parties are referred to by their original status before the trial Court.

2. The plaintiffs were employees of the Respondent-Company. It was pleaded that on 2nd April, 2000, they were called by the officers of defendant-company and asked to sign on pre-typed resignation letters, failing which they were threatened to be terminated. It was contended that the resignations were obtained by undue influence and under coercion in respect of which police complaint was filed. As such, the suit was filed for declaration that the resignation letters were obtained under coercion.

3. The suit came to be resisted by the defendant-company contending that there was voluntary resignation. It was further pleaded that the plaintiffs belong to executive category and the relief of damages equivalent to salary and allowance was not tenable.

4. The parties went to trial and the trial Court after framing the necessary issues, dismissed the suit, as against which Appeal came to be filed. The Appellate Court held that the resignations were submitted due to undue influence. As regards the damages, the Appellate Court held that the plaintiffs have not led any evidence in respect of the damages nor there are any averments in respect of the same. The Appellate Court granted compensation equivalent to two years salary.

5. Heard Mr. Vijay Vaidya, learned counsel for the Appellants and Mr. Vikram Sathaye, learned counsel for the sole-Respondent.

6. Learned counsel for the Appellant would submit that once the resignation has been held to be null and void, the plaintiffs are deemed to be in service and as such were entitled to compensation for the entire tenure of their employment. He submits that the substantial question of law which arises in the present case is as regards the quantum of compensation granted which is limited to only two years. He submits that the same is without any basis considering that the resignation has been declared to be null and void.

7. *Per contra*, learned counsel appearing for the Respondent would submit that subsequent to the resignations the entire retirement benefits including the provident fund were withdrawn by the plaintiffs which fact has been suppressed. He would further submit that there was no evidence brought on record as regards the damages and as such the compensation has been rightly awarded which has been deposited in this Court.

8. Considered the submissions and perused the records.

9. The admitted facts are that the plaintiffs were employees of the defendant-company and were working in the executive category. Resignations were tendered on 2^{nd} April, 2000, which have been held by the Appellate Court to have been obtained by coercion on the basis of evidence adduced by the parties. The plaintiffs had approached the Civil Court seeking declaration that the resignation is null and void. As the plaintiffs do not fall within the category of workmen, they are not covered by the labour law Legislation. The appointment of the plaintiffs with the defendant-company amounts a contract between the parties. If it is held that there is a breach of the terms of the contract, the plaintiffs are entitled to damages. The Appellate Court has considered the provisions of Section 73 of the Indian Contract Act, 1872, which reads thus:

> **"73. Compensation for loss or damage caused by breach of contract.—** When a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it.
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> Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach.
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> **Compensation for failure to discharge obligation resembling those created by contract.—**When an obligation resembling those created by contract has been incurred and has not been discharged, any person injured by the failure to discharge it is entitled to receive the same compensation from the party in default, as if such person had contracted to discharge it and had broken his contract.
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> *Explanation.*—In estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract must be taken into account."

10. The findings of the Appellate Court is that the plaintiffs have not led any evidence in respect of the damages suffered by them because of the wrongful termination nor they have made any averments in respect of the same. The provisions of Section 73 of the Indian Contract Act, entitles the persons suffering from the breach to compensation for any loss or damages, which naturally arose in the usual course of things from such breach. In the absence of any material brought on record to show the loss or damages which arose by reason of the termination, the Appellate Court by relying on the decision of the Apex Court in the case of ***O.P. Bhandari vs. Indian Tourism Development Corporation Ltd. and Ors.*** reported in ***1987 (7) E.L.J. 167(SC)*** has observed that in that case, the Apex Court had awarded equivalent to 3.3 years salary. The Appellate Court has further observed that the plaintiffs did not attend work after 2^{nd} April, 2000 and there is no material on record to demonstrate the loss suffered by them due to the breach of contract.

11. Considering the material on record the Appellate Court has directed compensation equivalent to two years salary of the Appellants. In view of Section 73 of the Indian Contract Act, the burden was upon the plaintiffs to bring on record material to show the loss or damages which has occurred due to breach of the contract. There is no material brought before the Courts and as such, the Appellate Court have granted the compensation in its discretion equivalent to two years salary. Having regard to the discussion above, no substantial question of law arises. The Appeal is dismissed.

12. Learned counsel appearing for the Appellant submits that the Appellant be permitted to withdraw the amount of compensation deposited by the defendant-company in the trial Court. Learned counsel for the Respondent has no objection. The Appellants are at liberty to withdraw the said amount deposited in the trial Court alongwith interest accrued thereon.

(Sharmila U. Deshmukh, J.)