IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.1021 of 2021

A.M.S.Rajesh Kanna ... Petitioner

versus

1.The Chairman-cum-Managing Director,
National Textile Corporation Ltd.,
Core-IV, Scope Complex,
7-Lodhi Road,
New Delhi - 110 003.

2.The Director (Finance),
National Textile Corporation Ltd.,
Core-IV, Scope Complex,
7-Lodhi Road,
New Delhi - 110 003.

3.The Office in charge,
National Textile Corporation Ltd.,
NTC House, P.O.Box No.2409,
35B, Somasundaram Mills Road,
Coimbatore - 641 009.

4.The Trustee,
NTC SRO Officers & Staff PF Trust,
NTC SRO, 35B,
Somasundaram Mills Road,
Coimbatore - 641 009. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 4th respondent to pay the petitioner a sum of Rs.7,00,000/- towards PF amount and directing the 3rd respondent to pay the petitioner a sum of Rs.1,58,840/- towards earned leave benefits.

For Petitioner	:	Mr.V.Sivakumar
For Respondent Nos.1, 2 & 4	:	No Appearance
For Respondent No.3	:	Mr.R.Shivakumar for M/s.K.M.Vijayan Associates

O R D E R

Heard Mr.V.Sivakumar, learned counsel for the petitioner and Mr.R.Shivakumar, learned counsel for the 3rd respondent and perused the materials available on record.

2. There is no representation for the respondents 1, 2 and 4 either in-person or through their counsel.

3. The petitioner who was appointed as Deputy General Manager (Information Technology) in the 1st respondent Company has been discharged in pursuant to the resignation letter dated 27.11.2019 submitted to the 1st respondent through the 3rd respondent and he has handed over all the charges to one Yusuf Ahmad as instructed by the 3rd respondent on 22.02.2020 and completed all the formalities as well.

4. Meanwhile, the respondents had issued a Circular dated 29.02.2020 stating that the petitioner would be relieved from service by the following week. However, the petitioner was not served with any relieving order. The respondents did not opt to settle the monetary benefits including Provident Fund to the petitioner. Hence, the petitioner has filed this Petition, seeking a writ of mandamus directing the 4th respondent to pay a sum of Rs.7,00,000/- as his PF amount and the 3rd respondent is directed to pay a sum of Rs.1,58,840/- towards earned leave benefits.

5. Mr.R.Shivakumar, learned counsel for the 3rd respondent submitted that some I.T. project has been assigned to the petitioner and that was not completed by him and for which, a notice has been given to him on 22.05.2019 and the same is pending and that is why the petitioner's resignation has not been accepted so far by the respondents. The petitioner has filed this Writ Petition by suppressing the above facts and further, the 3rd respondent is a Company registered under the Companies Act and hence, the

3rd respondent will not be covered under the purview of Article 12 of the Constitution of India and hence, the Writ Petition itself is not maintainable.

6. It is further submitted by Mr.R.Shivakumar, learned counsel for the 3rd respondent that the petitioner can only approach the Statutory Authority under the Tamil Nadu Shops and Establishments Act, 1947 or any other Statutory Authority, if so advised. So far as the definition of the State under Article 12 of the Constitution of India is concerned, "*the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.*"

7. Mr.V.Sivakumar, learned counsel for the petitioner submitted that though the 3rd respondent is a Company, it is a Central Government undertaking. The said fact has not been denied by the respondents as well. Hence, there is no question of maintainability of the petition. Further, the letter submitted by the petitioner on 27.11.2019 was accepted by the respondents. Admittedly, the petitioner was not dismissed from service. The petitioner submitted his resignation and it is unfair on the part of the respondents to say that the same is under consideration for more than 5 years.

8. Mr.V.Sivakumar, learned counsel for the petitioner further submitted that the petitioner's post is not kept vacant and the recruitment has been completed by the respondents. The respondents did not choose to recall the petitioner by stating that his resignation is not accepted. In fact, responding to the resignation letter submitted by the petitioner, a Circular communication has been sent by the respondents on 29.02.2020 which is extracted as under:-

> *"Shri.Rajesh Kanna AMS, DGM(IT), SRO, has tendered his resignation and in continuation to his resignation, he is about to be relieved from the service of the Organization by next week (subject to vigilance clearance). So, anybody having any clarification / doubt pertaining to the ongoing projects and completed projects by IT division, may be brought to the notice of the Undersigned immediately with a copy to the respective HOD.*
>
> *This is issued with the approval of the Competent Authority."*

9. Thereafter, the 1st respondent has sent a communication to one Yusuf Ahmad by stating that this petitioner has resigned from the service and hence, Yusuf Ahmad should come and report duty. Accordingly, the petitioner has also handed over charge to the said Yusuf Ahmad. The respondents, who are aware of all these transactions cannot come now and say that the petitioner's resignation has not been accepted so far. In fact, the petitioner's resignation has also been acted upon by appointing a new person by name Yusuf Ahmad and he was also informed about the resignation of the petitioner.

10. In such case, it is not proper on the part of the respondents to state that the petitioner is still continuing his services with the respondents. Even if the respondents did not choose to send any letter by formally relieving the petitioner from the post, they had stated that the petitioner will be relieved by the following week *vide* letter dated 29.02.2020.

11. It is obviously for these reasons, the respondents have not chosen to initiate any disciplinary action against the petitioner by construing his absence as something unauthorised or otherwise. Having accepted the petitioner's resignation letter, the respondents cannot take a convenient stand that the petitioner's resignation has not been accepted so far.

12. Since withholding the petitioner's Provident Fund amount and leave encashment benefit is unfair, the respondents are directed to release the same with interest from the date of submission of the resignation letter (i.e. 27.11.2019) by the petitioner till the date of payment at the rate of 6% per annum, within a period of six (6) weeks from the date of receipt of a copy of this order.

With the above observation, this Writ Petition is **disposed**. No costs.

04.03.2024

Speaking order
Index : Yes
Neutral Citation : Yes

sri

To

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R.N.MANJULA, J.

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