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W.P.No.22069 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.22069 of 2009

M.Ramachandran

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Vellore.

2.The Management,
Enfield India Limited now
called Greaves India,
No.72, SIPCOT, Ranipet.

3.The Management of Enfiled
India Limited,
No.296, Old Mahabalipuram Road,
ELCOT Sez, Sholinganallur, Chennai 600 119.
(R3 impleaded vide order dated 04.08.2021
made in W.M.P.No.16662 of 2021)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent relating to the impugned award dated 29.06.1999 in I.D.No.13 of 1994 and quash the same and direct the 2nd respondent to reinstate the petitioner in service with full back wages, continuity of



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service and other attended benefits.

For Petitioner : Mr.R.Rajaram
For Respondents : Mr.Anand Gopalan for R3
Mr.P.Ragunathan for
M/s.T.S.Gopalan & Co for R2
R1-Court

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent relating to the impugned award dated 29.06.1999 in I.D.No.13 of 1994 and quash the same and direct the 2nd respondent to reinstate the petitioner in service with full back wages, continuity of service and other attended benefits.

2. Heard Mr.R.Rajaram, learned counsel for the petitioner, Mr.P.Ragunathan, learned counsel for R2, Mr.Anand Gopalan, learned counsel for R3 and perused the materials available on record.

3. The petitioner who has given a resignation letter on 08.02.1992 and whose resignation has been accepted by the second respondent Management on 10.02.1992 and the salary settlement was given for the period he worked on 11.02.1992, has filed this industrial dispute stating



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that he had chosen to withdraw the resignation by sending another letter on 03.03.1992 which is within one month time from the date of his resignation letter dated 08.02.1992.

4. There is no quarrel with regard to the relationship between the petitioner and the second respondent that they are employer and the employee. The Labour Court has chosen to dismiss the industrial dispute by holding that the resignation has been rightly accepted and it cannot be considered as termination. But the petitioner has raised the contention that the resignation letter ought not to have been accepted before the expiry of one month time period from the date of the resignation letter and even if it is accepted, it is non-est and the petitioner should be presumed to be continuing in service till the expiry of one month and within the said one month, the petitioner had even rightly sent a letter for withdrawing his resignation and the Labour Court had not gone into those points.



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5. As per the Standing Orders of the second respondent Management, a permanent employee, if he wishes to resign the job, he should give one month notice. In the instant case, the petitioner did not choose to give one month notice, but he has given a letter dated 08.02.1992 to accept his resignation. It appears that the second respondent also did not insist for one month notice as per the Standing Orders and had chosen to accept the resignation on 10.02.1992 itself and it is stated that the salary settlement for the petitioner has also been made on 11.02.1992.

6. The learned counsel for the petitioner cited a judgment rendered in the case of *Punjab National Bank Vs. P.K.Mittal, reported in 1989 (Supp) 2 SCC 175*. It was the case of an employee who has given three months notice for his resignation in accordance with the Standing Orders. However, the Management has chosen to accept his resignation before the expiry of three months and later, the employee came back and claimed that he wished to withdraw the resignation. As he was not allowed to withdraw the resignation and there is also no Standing Order permitting



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the employee who had given resignation letter to withdraw his resignation, he has filed a Writ Petition challenging the order of his termination.

7. The argument of the learned counsel for the petitioner in that case was that at any case, even as per the Standing Order, he has got three months notice period and if the Management had chosen to accept the resignation prior to the expiry of three months, that would amount to non acceptance and the petitioner should have presumed to be continuing in service and hence, the alleged acceptance of the resignation would amount to termination.

8. On hearing the contention of the learned counsel for the petitioner, the Court has held that there are two ways of interpreting the position. The one is, by looking into the expiry of three months from the date of issuance of notice that the petitioner is presumed to be continuing in service till the expiry of the notice period. Even if the resignation is accepted before the said date, it would become effective only on and from



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the day which follows the expiry of three months notice period. The other interpretation is that when an employee gives a notice of resignation and if he chooses to mention a future date beyond three months time as the date from which, his resignation should come into effect, it is immaterial and the resignation would come into effect immediately after the expiry of three months time. By holding so and also taking into account of the facts of the case, the Court has held that *"it is true that there is no provision in the regulation permitting the employee to withdraw the resignation. Until the resignation becomes effective on the terms of the letter, it is open to the employee to withdraw his letter of resignation within the three months period."*

9. By claiming that the above factual situation and the legal position is applicable to the instant case, the learned counsel for the petitioner insisted that the immediate acceptance of the resignation letter given by the petitioner could be of no effect and it can take effect only after expiry of one month time. As the petitioner has sent his letter to withdraw resignation through certificate of posting, the same would take



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into effect and would entitle the petitioner to continue into service.

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10. In Labour Law jurisprudence, such notice for resignation from the side of the employee to the employer is to enable the employer to find an alternate employee to be employed in the place of an outgoing employee and to ensure that the functions of the Company is not affected. Similarly while terminating the services of an employee by the employer, the notice period or one month salary in lieu of notice period is only in order to enable the employee to find out an alternate employment for his livelihood that he should not suffer during the period when he was trying to find an another job.

11. However, the learned counsel for the petitioner submitted that the notice period for the employee to resign his job is with the object of allowing him to think and withdraw the resignation, in case if he intends to do so before the expiry of one month.



12. The above interpretation can be accepted provided the employee has quoted in his resignation that his resignation has to come into effect only after expiry of the notice period or any particular period within the limits of the Standing Order, he mentions. There are instances where the employee could have found out a better job with better salary or even some overseas opportunities and for which, he would insist the Management to relieve him immediately without waiting for the three months period. So it is not always at the option of the Management to insist for three months notice and the employee can also make a request to waive the same. In certain cases, the Management itself will come forward and waive the three months notice. But the waiver of three months notice can be of no consequence provided the employee is not affected.

13. But in the instance case, it is claimed that the employee's interest is affected due to implied waiver of one month notice and the immediate acceptance of resignation by the employer. When the employer himself has come forward to waive one month notice, then, the



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circumstances in which, the employer has chosen to waive one month time and the urge on the part of the employee to allow him to be relieved, has to be sent.

14. As stated already, in the resignation letter submitted by the petitioner, he has only stated that due to his family reasons, he has chosen to resign the job and his reasons should be accepted and he should be relieved. When he has not stated that he would be given with the benefit of availing the notice time in order to enable him to do some other arrangement, then it would not be fair on the part of the employer to waive the notice period to the disadvantage of the employee. As stated already, in the present case, the employee did not show any such urge but his only intention is to leave away the job for the reasons chosen by him. By way of confirming his intention, he has also got his settlement of wages.

15. It is submitted by the learned counsel for the second respondent that the above conduct of the petitioner has to be viewed that



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he did not intend to continue with the job at any cost. Infact, he has chosen to register himself in the Employment Exchange on 03.03.1992 itself. It is further claimed by the learned counsel for the second respondent that the withdrawal letter of the resignation alleged to have sent by the petitioner has not been received by the Management. But the legal position pointed out by the learned counsel for the petitioner on this point is that it is sufficient to show the proof for posting the letter to withdraw the resignation and that would presume that the letter has reached the office of the Management. There cannot be any quarrel on that point.

16. Now, this matter stands on the technicalities of accepting the resignation letter without waiting for one month time, even in the absence of the petitioner mentioning in his resignation letter that he intends to give effect to the resignation on and from the expiry of one month notice. In the judgment cited by the learned counsel for the petitioner, the petitioner had given prior three months notice and all such confusion of acceptance and withdrawal of resignation had taken effect within three months



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period. But in the instant case, the petitioner did not insist for any waiting period for one month and he had also walked out of the service once his resignation is accepted.

17. The learned counsel for the petitioner further submitted that the one month notice period as stated in the Standing Order has to be construed as a statutory mandate and even in the absence of the mentioning about the outer limit, it would mandate that the employer to wait until such period and should then only act on the letter of resignation. If such an interpretation is given for one particular case, that would go against the interest of the employees, when for various reasons the employees might wish their employer to waive the mandates in order to enable them to settle in any other job or situation comfortably. So such strict interpretation cannot be given and that will go against the interest of both the employer and the employee.

18. When one month notice to the employee is contemplated and the employee intends to go on resignation, it is well within the discretion



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of the employer to waive the same in the absence of any exclusive Standing Order to that effect. In the very same judgment, the Court has further observed that if an employee desires to get relieved immediately, without waiting for the expiry of the notice period, the employer is entitled to accept the resignation as requested by the employee by waiving the notice period. Hence the petitioner cannot blow hot and cold by submitting his resignation letter stating that it should be accepted and he should be relieved without mentioning any date and on the other hand, he claimed that the employer should wait for one month even if he did not explicitly make any mention of the said date.

19. In the instant case, the petitioner had not chosen to mention any outer limit for the expiry of the notice period from which his resignation has come into effect. After the resignation is accepted and after the petitioner has got his settlement towards whatever dues to be paid, he had chosen to file the Writ Petition and that too after ten years.

20. The learned counsel for the petitioner submitted that the



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petitioner has got some medical condition and hence he did not choose to file a Writ Petition immediately and hence, 10 years delay cannot impede him in reaping any benefits as claimed by him.

21. The ten years delay to file a Writ Petition challenging the order passed in the industrial dispute, in my view does not appear to be reasonable, even in the context of the reasons stated by the petitioner. It would only show that the petitioner who had not just satisfied with the award of the Labour Court, as an after thought, had chosen to file this Writ Petition to test the waters. Both on the facts and on law, the petitioner does not stand in a better position . Hence I find no reason to interfere with the well analysed and reasoned judgment of the Labour Court.

22. In view of the above stated reasons, this Writ Petition is dismissed. No costs.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No

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R.N.MANJULA, J.

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To

1.The Presiding Officer,
Labour Court, Vellore.

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