



Writ Petition No.28707 of 2013

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON : 23.11.2023**

**PRONOUNCED ON: 19.03.2024**

**CORAM**

**THE HONOURABLE DR.JUSTICE D.NAGARJUN**

**Writ Petition No.28707 of 2013**  
**& MP No.1 of 2013 & WMP.No.24337 of 2016**

The Managing Director,  
M/s.Taj Madras Flight Kitchen Private Limited,  
No.6, Officers Lines, 272, G.S.T.Road,  
Pallavaram, Chennai-600 043,  
rep. by its General Manager, Mr.Radhakrishnan.P ... Petitioner

**Vs.**

1. The Presiding Officer,  
I Additional Labour Court,  
Chennai.

2.R.Subbaraj ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records connected to I.D.No.297 of 2007 on the file of the first petitioner i.e., I Additional Labour Court, Chennai and to quash the Award dated 05.08.2013 made therein.

For Petitioner : Mr.S.Shivathanu Mohan



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Writ Petition No.28707 of 2013

For Respondents: Mr.G.Ramapriya Gopalakrishnan for R2

### **ORDER**

This Writ Petition has been filed seeking for issuance of a Writ of Certiorari, to call for the records connected to I.D.No.297 of 2007 on the file of the first petitioner i.e., I Additional Labour Court, Chennai and to quash the Award dated 05.08.2013 made therein.

2. The petitioner company is registered under the Companies Act and is engaged in the business of catering to the various airlines. The petitioner joined the services of the petitioner on 01.09.2000 as Trainee Commis III and subsequently his services were confirmed on 16.04.2002. On 15.10.2005 he submitted a letter to the petitioner management stating that he was suffering from chicken fox and requested for 2 days leave and the same was granted by the petitioner management. But he did not report for duty till 09.11.2005. Therefore, the management sent a Letter to the second



*Writ Petition No.28707 of 2013*

respondent on 10.11.2005 asking him to report for duty. However, the said letter was returned as left. Thereafter, the second respondent reported for work on 1.12.2005 and again sought for 2 more days of leave. So, the petitioner management instructed the second respondent to produce necessary medical certificate in this regard. The 2nd respondent neither produced medical certificate nor reported for duty. Hence, the petitioner management sent another letter dated 14.12.2005 to the 2nd respondent asking him to report before the company's Medical Officer and produce the medical certificate. Even after that he failed to appear before the Medical Officer. Subsequently, the second respondent produced the medical certificate on 17.01.2006 stating that he would be fit to resume duty on 01.02.2006. On which he was directed to appear before the Medical Officer on 20.01.2006 to obtain fitness certificate. However, on 23.01.2006. he came to the petitioner's office (though he was on leave) and submitted his resignation letter, requesting the management to accept his resignation and relieve him with immediate effect. Accordingly, the same was accepted and Management has relieved him from duty on that day itself.



*Writ Petition No.28707 of 2013*

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3. While so, the 2nd respondent sent a letter dated 31.01.2006 to the petitioner management, alleging that he was compelled by the petitioner management to resign from service. Thereafter, the 2nd respondent raised an industrial dispute vide I.D.No.297 of 2007 before the 1<sup>st</sup> respondent Labour Court, which adjudicated the dispute and passed the Award, dated 05.08.2013, directing the petitioner management to reinstate the 2nd respondent in service with full backwages, continuity of service and all other attendant benefits. Challenging the same, the petitioner has come forward with the present Writ Petition.

4. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents.

5. On going through the impugned order passed by the Labour Court, it is clear that the impugned orders were passed mainly on two grounds. Firstly, contrary to the terms of appointment of the second respondent with



*Writ Petition No.28707 of 2013*

the petitioner, one month notice had not been given to the Management to make the resignation effective and secondly prior to acceptance of resignation the sanction of the General Manager had not been obtained.

6. It is submitted by the learned counsel for the second respondent that the second respondent was engaged as a cook in the petitioner Taj Madras Flight Kitchen (P) Ltd., and he has fell sick and has applied for Medical Leave from 15.10.2005. The second respondent was directed to appear before the Medical Officer, but, when he has submitted the medical reports to the petitioner/Management, he was not permitted to join. On 23.01.2006, second respondent went to the petitioner, where the Kannan and other officers have forced him to submit his resignation. Accordingly, the second respondent has submitted letter of resignation and the same was also accepted and he was relieved from service.

7. The second respondent has raised Industrial Dispute in I.D.No.297 of 2007 and the same was allowed. The impugned order was passed holding that the one month notice has not been given to the Management prior to



*Writ Petition No.28707 of 2013*

accept the resignation and that the resignation has been sanctioned by the General Manager. Considering the submissions of the petitioner and second respondent, the Labour Court has framed mainly two issues. Firstly, whether resignation submitted by the second respondent dated 23.01.2006 was obtained by the petitioner/ Management by force or threat. Secondly, whether the second respondent is entitled for reinstatement with all attendant benefits. In respect of the first issue, the Labour Court gave finding that resignation was obtained under pressure or coercion.

8. Resignation letter dated 23.01.2006, was submitted by the second respondent himself in the office of the petitioner. It was the handwritten resignation letter. It is mentioned clearly in the said resignation that he has been suffering from ill-health and unable to walk, thereby, he has been submitted resignation. Second respondent is not clear in the pleading as to on which date who has threatened him to submit his resignation. There are no such details. Second respondent has failed to mention names of the persons who were present at the time of alleged coercion. Even if somebody has pressurized second respondent to submit resignation, there was no



*Writ Petition No.28707 of 2013*

necessity for the second respondent to submit the resignation. The second respondent has not given any complaint to the police that somebody has pressurized him to submit his resignation. Since, the second respondent has himself submitted his resignation letter in his own handwriting, any amount of argument that resignation was submitted on account of coercion or undue influence or pressure cannot be accepted. Further, if at all he has submitted the resignation under pressure on the next day he could have sent a letter withdrawing the same.

9. The first respondent/Labour Court in his order has mixed up the issue of one month time for acceptance of resignation with the voluntariness of resignation. In fact both of them are two different things. Labour Court has held that because one month notice stipulation has not been followed, the resignation submitted is not voluntary. No evidence is placed before the Labour Court, by the second respondent that he was coerced him or applied undue influence for submitting the resignation. In fact there is no reason why the petitioner Management forced the second respondent to submit the



*Writ Petition No.28707 of 2013*

resignation. There is no evidence at all to conclude that resignation submitted by the second respondent is on account of coercion.

10. In respect of submission of the learned counsel for the second respondent is that one month notice is required for acceptance of resignation letter, it is true that as per the terms of appointment of second respondent, one month notice has to be issued to the Management to make the resignation effective. On a careful perusal of the condition, the condition is in favour of the petitioner/Management and not in favour of the second respondent. As per the condition, the Management has got one month notice to accept resignation even if resignation is proper. Normally these kind of rules will be incorporated in the terms of appointment in order to see that workers are not suddenly submitting their resignation letter to leave the company. Because, if a person suddenly leaves the company, by submitting the resignation then there will be administrative vacuum in the department. Therefore, one month time will be given in order to settle the accounts and also to make the alternative arrangements. However, in case if the Management intends to relax the said condition and decides to accepts the



resignation, without waiting for one month period, it is for the management and that the management is at liberty to do so. Further in the case on hand, the second respondent has specifically requested the petitioner/Management to relive him with immediate effect. On considering the request made by the second respondent, it is for the Management to either to accept the resignation letter then and there or wait for one month period. Since the second respondent requested the petitioner/Management to relieve immediately on account of his health conditions and since Management has not felt it necessary to keep the resignation pending for a period of one month, the resignation letter was accepted with immediate effect. Therefore, mainly because letter of resignation has been accepted without expiry of one month it cannot be said that resignation accepted is not valid.

11. The other aspect raised by the second respondent is that prior to acceptance of resignation sanction from the General Manager was not accorded. On careful perusal of the resignation letter and other connected proceedings, it is clear that resignation was accepted by the Managing Director himself. Therefore with regard to the proceedings of resignation, it



Writ Petition No.28707 of 2013

cannot be argued that General Manager has not given pre-sanction for resignation of the second respondent.

**Dr.D. NAGARJUN, J.**

jai/dn

12. In view of the above, considering from any angle, the award passed by the Labour Court is contrary to the evidence, thereby it is perverse.

13. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

19.03.2024

Index: Yes/No  
Speaking order: Yes/No  
Dn/jai  
To  
The Presiding Officer,  
I Additional Labour Court,  
Chennai.

10/11



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*Writ Petition No.28707 of 2013*

**W.P.No.28707 of 2013**