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W.P.No.25627 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.25627 of 2022

and

W.M.P.No.24614 of 2022

P.Arumugam

... Petitioner

Vs.

The Management of Bata India Ltd.,
Post Box – 39,
73 & 74 – Sipcot phase – 1,
Hosur – 635 126,
Krishnagiri District

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the Labour Court, Hosur in I.D.No.136 of 2019 on 14.02.2022 and quash the same.

For Petitioner : Mr.R.Vignesh

For Respondent : Mr.P.Raghunathan for
M/s.T.S. Gopalan & Co.

ORDER

This Writ Petition has been filed to quash the award passed by the Labour Court in I.D.No.136 of 2019 dated 14.02.2022.



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WEB COPY 2. The brief facts to dispose of the writ petition are as follows:-

The petitioner joined the service under the respondent's company on 25.09.1995 and he resigned his job on 05.11.2016 due to coercion. At the time of resignation, he was Assistant Manager. Against the said termination, an Industrial Dispute was raised by the petitioner before the Labour Court. The Labour Court, after elaborate discussions, dismissed the petition on the ground that this petitioner is not a workman and he was an Assistant Manager and he voluntarily resigned his job. Aggrieved by the said order, the present Writ Petition has been preferred by the petitioner/workman.

3. The learned counsel for the petitioner would submit that the respondent is a Multi National Company and he joined the service under the respondent on 25.09.1995 and his service came to an end by way of disputed resignation on 05.11.2016, at the time, he was designated as Assistant Manager. Though he was designated as Assistant Manager, his duties and responsibilities were mainly clerical. Therefore, he is not a Manager and he is a workman as per Section 2(s) of the Industrial Disputes Act, 1947 and as against the termination, the petitioner raised



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an Industrial Dispute before the Labour Court, Salem in I.D.No.149 of 2017, where the petitioner was examined as W.W-1 and another witness

was examined as W.W-2 and marked documents under Ex.W-1 to Ex.W-12. On the side of the Management, M.W-1 and M.W-2 were examined and 23 documents were marked. The Labour Court, without analysing the evidence in a proper perspective, dismissed the petition on the ground that the petitioner resigned his job. In fact, as per the employment contract, there is one month notice period for resignation and the petitioner alleged to have given a resignation letter dated 05.11.2016 and the same was accepted by the respondent on the same day and also he could be relieved duty on 17.12.2016. Therefore, the acceptance of the resignation on the same day is illegal. No sufficient time was given to the petitioner for withdrawal of resignation letter. The finding of the Labour Court that the resignation was genuine and voluntarily, is perverse and it is not supported by material evidence.

3.1. The Labour Court ought to have held that the petitioner was terminated from service and ought to be reinstated with consequential benefits. The notice period mentioned in the standing orders is satisfactorily imposed and the petitioner has not received any gratuity



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and the same is in the hands of respondents. The petitioner was not allowed to work from 06.11.2016 onwards and the attendance register under Ex.M-13 is clear to that effect. Therefore, the petitioner is entitled to reinstatement, back wages and continuity in service and provident fund amount has to be paid by the Management. Even as per the resignation letter, date of resignation is 07.11.2016 and the last working day will be 31.12.2016, but the said resignation letter was accepted on the same day. Therefore, it is a violation of standing orders and employer could not have accepted the resignation on the same day.

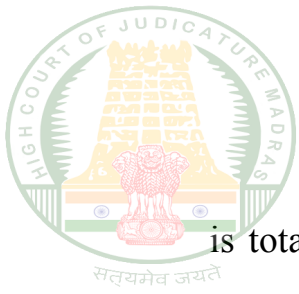
3.2. The learned counsel appearing for the petitioner would further submit that in fact the petitioner has submitted the resignation letter under pressure and threat made by the superiors and the letter was dictated to the staff and typed in the computer by the Management and handed over to the petitioner with a direction to write the same as directed by the superiors who forced him to resign and the same was not given voluntarily. The petitioner has not surrendered his original ID card and he was relieved from duty before the stipulated time. Therefore, the petitioner is entitled to the relief sought for in this petition.



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WEB COPY 3.3. To support his contention, the learned counsel appearing for the petitioner relied upon the Judgment of the Hon'ble Supreme Court reported in the case of *Srikantha S.M. Vs. Bharath Earth Movers Ltd., reported in (2005) 8 SCC 314 and in the case of AIR India Express Limited and Ors. Vs. CAPT. Gurdarshan Kaur Sandhu reported in (2019) 12 SCR 980*. Therefore, the order passed by the Labour Court is unsustainable and the same is liable to be set aside.

4. The learned counsel appearing for the respondent would submit that the petitioner was working as Assistant Manager and he will not come under the definition of workman as defined under Section 2 (s) of the Industrial Disputes Act. The petitioner voluntarily resigned his job through letter dated 05.11.2016 and the same was forwarded to the Officers and the same was accepted with effect from 01.01.2017, to that effect endorsement was also made by the authority on 16.11.2016. The petitioner received the salary till 31.12.2017. Therefore, the one month notice period was granted to the petitioner and the petitioner has not withdrawn his resignation letter from the date of petition till 31.12.2017. The allegations against the respondent that they forced to resign the job



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is totally false and that if any such threats made by the officials of the respondent, what prevented the petitioner to send a letter by withdrawing the resignation. Moreover, the resignation letter is hand written by the petitioner. Further, the date of resignation letter is 05.11.2016 and it was accepted with effect from 01.01.2017. Therefore, the respondent has accepted the resignation after the notice period and there was no any procedure violation. The Labour Court, without considering the evidence, came to a conclusion that the petitioner was a workman. However, came to a conclusion that the acceptance of resignation was a voluntarily one. Since the Labour Court has dismissed the petition, the respondent has not challenged the order as against the finding that the petitioner was worked as a workman and not as a managerial staff in the respondent factory. The petitioner himself though admitted that he worked as an Assistant Manager, the Labour Court failed to consider the same. However, the Court below dismissed the petition holding that the petitioner voluntarily resigned his job. Therefore, this Writ Petition is liable to be dismissed.

5. This Court heard both sides and perused the records.

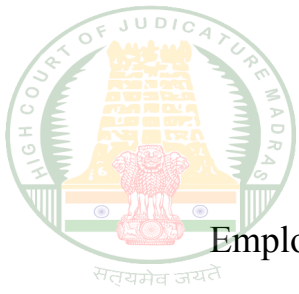


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6. In this case, there is no dispute between the parties as employee and employer. According to the petitioner, though he was designated as Assistant Manager, he was doing clerical work and before the Labour Court, the petitioner was examined as W.W-1 and another one was examined as W.W-2 and marked documents under Ex.W-1 to Ex.W-12. On the side of the Management, M.W-1 and M.W-2 were examined and marked Ex.M-1 to Ex.M-23, the Labour Court came to a conclusion that the petitioner was not working as Manager capacity but he was working as clerical capacity and he was working as workman and therefore, this petition is maintainable. As against the said finding, no challenge was made by the respondent/Management. However, the Labour Court dismissed the petition on the ground that the petitioner has voluntarily resigned his job.

7. According to the petitioner, he resigned his job due to the pressure made by his superiors. While so, it is the duty of the petitioner to prove that the said resignation letter was sent due to coercion. Even the pleadings in the petition filed before the Industrial Tribunal, as there is no specific allegation as against the particular person about the coercion and they are in general as against the Accounts Manager and



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Employees Manager. Once the petitioner has admitted the resignation letter, it is his duty to prove that it was sent under coercion and there is no sufficient pleadings, either fraud or coercion and the pleadings are not specific and vague. Though, the petitioner sent a resignation letter dated 05.11.2016, the same was accepted with effect from 01.01.2017 by the Authorities on 16.11.2016.

8. It is a well-settled law that unless the reasons for rejection of resignation has been communicated to the petitioner within the notice period, it is deemed to be accepted. If the resignation letter was sent on coercion or fraud, then the petitioner could have withdrawn his resignation within the notice period, ie., prior to its acceptance. But this petitioner admittedly has not withdrawn his resignation and he waited for some period and approached the labour office on 18.04.2017 belatedly. Had the respondent obtained resignation letter on compulsion, the petitioner could have withdrew the same before the date of acceptance and it is also admitted fact that the petitioner received salary till 31.12.2016. Therefore, there are no evidence to prove the alleged coercion made by the respondents. At this juncture, the learned counsel appearing for the petitioner relied upon the following judgments:



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(i) ***In the case of AIR India Express Limited and Ors. Vs.***

CAPT. Gurdarshan Kaur Sandhu reported in (2019) 12 SCR 980

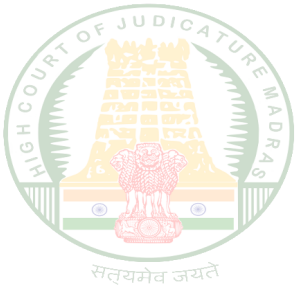
wherein Hon'ble Supreme Court held as follows:-

“11. It is thus well settled that normally, until the resignation becomes effective, it is open to an employee to withdraw his resignation. When would the resignation become effective may depend upon the governing service regulations and/or the terms and conditions of the office/post. As stated in paragraphs 41 and 50 in Gopal Chandra Misra, “in the absence of anything to the contrary in the provisions governing the terms and conditions of the office/post” or “in the absence of a legal contractual or constitutional bar, a 'prospective resignation' can be withdrawn at any time before it becomes effective”. Further, as laid down in Balram Gupta, “If, however, the administration had made arrangements acting on his resignation or letter of retirement to make other employee available for his job, that would be another matter.”

(ii) ***Srikantha S.M. Vs. Bharath Earth Movers Ltd., reported in***

(2005) 8 SCC 314 wherein the Hon'ble Supreme Court held as follows:-

“26. On the basis of the above decisions, in our opinion, the learned counsel for the appellant is right in contending that though the respondent Company had accepted the resignation of the appellant on 04.01.1993 and was ordered to be relieved on that day, by a subsequent letter, he was granted casual leave from 05.01.1993 to 13.01.1993. Moreover, he was informed that he would be relieved after office hours on 15.01.1993. The vinculum juris, therefore, in our considered opinion, continued and the relationship of employer and employee did not come to an end on 04.01.1993. The relieving order and payment of salary also make it abundantly clear that



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he was continued in service of the Company up to 15.01.1993.”

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9. On a careful perusal of these judgments, it is clear that normally, until the resignation becomes effective, it is open to an employee to withdraw his resignation. When would the resignation become effective may depend upon the governing service regulations and/or the terms and conditions of the office/post. In the absence of anything to the contrary under the provisions governing the terms and conditions of the office/post”or “in the absence of a legal contractual or constitutional bar, a 'prospective resignation' can be withdrawn at any time before it becomes effective”. Further, it is clear that the relationship of employee and employer did not come to an end until the acceptance of resignation letter as per the terms of standing order.

10. In the case on hand as per the standing orders, one month time is provided for the resignation as notice period. The date of resignation is 05.11.2016 and one month notice period will be lapsed on 05.12.2016. Whereas, the petitioner received salary till 31.12.2016 and in the resignation letter it was mentioned as last day of working day will be 31.12.2016. Therefore, the petitioner failed to prove that the resignation



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letter was submitted on coercion and the respondent also acted upon the resignation letter. Therefore, the petitioner cannot deny the resignation letter after its acceptance. The Labour Court also passed detailed orders, after elaborate discussions and it does not warrant any interference by this Court.

11. In view of the above, this Writ Petition having no merits and is liable to be dismissed.

Accordingly, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Internet: Yes/No

To

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P.DHANABAL. J.



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