



W.P.(MD).No.25268 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.25268 of 2023

and

W.M.P(MD) No.21460 of 2023

1. The Management,
DBS Bank,
(Formerly Lakshmi Vilas Bank)
Regional Office,
Kathaparai, Karur 639 006.
2. The Management,
DBS Bank,
(Formerly Lakshmi Vilas Bank)
Corporate Office, LVB House,
4/1 Sardar Patel Road, Guindy,
Chennai – 600 002.
3. The Management,
DBS Bank India Limited,
(Formerly Lakshmi Vilas Bank)
Tallakulam Branch, 96 Alagarkoil Road,
Opp American College,
Madurai – 625 002.

... Petitioners

Vs.

1. Appellate Authority under the
Tamil Nadu Shops and Establishments Act
Represented by Deputy Commissioner of Labour,
Madurai.



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WEB COPY 2. L.P.Saravanan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the first respondent and quash its order dated 13.06.2023 in TNSE IA 10/2022 in 03/2022.

For Petitioners : Mr.Anandhgopalan
For M/s.T.S.Gopalan and CO

For R1 : Mr.G.V.Vairam Santhosh
Additional Government Pleader

For R2 : Mr.S.A.Ajmalkhan

ORDER

The present Writ Petition has been filed challenging the order passed by the first respondent in TNSE IA 10/2022 in 03/2022, dated 13.06.2023.

2. The second respondent herein was employed as a clerical staff in the petitioners' Bank and he has tendered his resignation on 29.08.2020 to the Manager and it was forwarded to the Head Office in Chennai on 03.09.2020. A perusal of the resignation letter reveals that the employee has requested to relieve him with three months' notice period.

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3. According to the employee, he was orally terminated on 14.09.2020, but no relieving order was issued. Thereafter, the employee has sent a letter to the Management through e-mail on 26.02.2021 wherein he has requested the Management to accommodate him in any other post. When he was not successful, employee has approached the appellate authority under the Tamil Nadu Shops and Establishment Act invoking Section 41(2) of the said Act. This application came to be filed on 22.12.2021.

4. As soon as the Management has received notice from the appellate authority, they have filed an interlocutory application in I.A.No.10 of 2022 questioning the maintainability of the appeal on the ground that the employee has resigned from the job and since there was no illegal termination, the appeal is not maintainable. While hearing the interlocutory application the appellate authority has considered the appeal itself on merits and has passed the present impugned order wherein he had allowed the appeal and set aside the order of termination. Challenging the said order, the present Writ Petition has been filed by the Management.



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5. The learned counsel appearing for the petitioners/the Management has raised the following grounds:

a) When the Management had only argued the application in I.A.No.10 of 2022 relating to the maintainability of the appeal, the appellate authority ought not to have passed orders in the main appeal itself.

b) When the employee has resigned voluntarily and had not recalled or withdrawn his resignation letter, the appellate authority will not have any jurisdiction to entertain the appeal under Section 41 (2) of the Tamil Nadu Shops and Establishments Act.

6. The learned counsel appearing for the Management had relied upon the decisions of this Court which are as follows:

1. 1980 SCC Online Mad 247 (C.R.Ramaswami Vs.Messrs Needle Industries (1) Limited and another);

2. 1990 1 LLJ 280 (OP.Stores Limited Vs. Sree Meenakshi Mills Thozhilalar Co – (1) The Assistant Commissioner of Labour and another);

3. 1989 Supp (2) SCC 175 (Punjab National Bank Vs.P.K.Mittal); and



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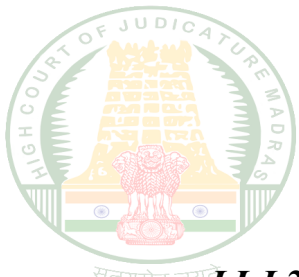


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4. **2000 (1) LLN 649 (Mani Vs.State Bank of Travancore)** in support of the contentions.

7. He further submitted that the employee has not chosen to recall or withdraw his resignation letter within a period of three months. Even assuming that during the notice period the employee was terminated illegally, he was only entitled to wages or salary for the said period. When there was no illegal termination and the resignation was submitted voluntarily, the appeal before the first respondent is not maintainable.

8. Per contra, the learned counsel appearing for the employee submitted that the resignation was obtained forcibly and he was terminated even without waiting for three months' notice period. He further submitted that when the resignation was obtained forcibly, the first respondent will have jurisdiction to entertain the appeal under Section 41 of the Tamil Nadu Shops and Establishments Act. He further submitted that the first respondent has jurisdiction to ascertain whether the resignation letter was submitted voluntarily or it was obtained forcibly. The learned counsel appearing for the respondent has also relied upon the judgment of our High Court in **1990 1**



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LLJ 280 (OP.Stores Limited Vs. Sree Meenakshi Mills Thozhilalar Co – (1)

The Assistant Commissioner of Labour and another), wherein it is held that, in case, if there is a dispute with regard to the voluntariness of tendering the resignation, the appellate authority will have jurisdiction. He further submitted that in the letter dated 26.02.2021 it has been specifically pointed out that the resignation has been obtained forcibly. He also pointed out that in the grounds of appeal before the appellate authority specific ground has been raised that the resignation has been obtained forcibly.

9. Heard the learned counsel appearing on either side and perused the materials available on record.

10. The second respondent, who was employed as a clerical staff in the petitioners' Bank has submitted the resignation letter on 29.08.2020 before the Branch Manager and it has been forwarded to the Head Office on 03.09.2020. A perusal of the resignation letter reveals that he had requested to relieve him after three months' notice period. A perusal of the Bank Regulations also reveal that three months' notice period is prescribed for any resignation.



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11. In the present case, the employee's three months' notice period expired on 29.11.2020. There are no records to show that the employee has recalled or withdrawn his resignation letter before this notice period. The only allegation on the part of the employee is that within the notice period he was not permitted to perform his duties and he was terminated illegally on 14.09.2020. Therefore, the allegation seems to be that during the notice period he was not permitted to work. In case, if any forcible resignation was obtained, he could have immediately recalled his letter within three months' notice period. The first letter emanates from the employee after a period of six months namely, on 26.02.2021. Therefore, it is clear that after the resignation letter was submitted, no attempt was made on the part of the employee to withdraw his resignation either during the notice period or immediately thereafter. In such circumstances, the resignation has to be considered only as voluntarily in nature.

12. The portion of the grounds of appeal is hereby extracted as follows:-

“Though the Petitioner/Appellant tendered his resignation on 29.08.2020, the above resignation has



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to be effected only after three month notice period alone. Instead the then LVB Management without assigning any reason orally terminated the petitioner/Appellant from service on 14.09.2020 and even without any whisper about the acceptance of the resignation tendered by the petitioner/Appellant. The oral termination on 14.09.2020 is against law which makes it as 'illegal termination' of the service of the Petitioner/Appellant, even though there is a presence of 3 months notice period, even as per their rules of his alleged resignation also. The above acts of the bank officials shows their highhanded activities and their illegal ways to get rid of the petitioner/appellant from the post of through forceable resignation obtained from him. Hence the Petitioner/Appellant for the facts narrated above and on the following grounds of appeal challenge the oral termination of the Petitioner/Appellant of the formerly the LV Bank Management and after amalgamation with the DBS Bank now the DBS Bank Management made on 14.09.2020 is against the procedure established by law and to set aside the same and prays for reinstatement of the Petitioner/Appellant in the same position as on before the date of resignation dated 29.08.2020, by the present



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Management i.e. DBS Bank Limited.”

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13. The ground raised by the employee would clearly reveal that except the allegation of forcible resignation, the employee has not taken any steps to recall the resignation letter or ever contended that it is forcible resignation. In such circumstances, it is clear that it is the case of voluntarily resignation and therefore, the first respondent will not have any jurisdiction to entertain the appeal under Section 41 of the Tamil Nadu Shops and Establishments Act.

14. In view of the above said deliberations, the order impugned in the writ petition is set aside and this Writ Petition stands allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
The Deputy Commissioner of Labour,
Appellate Authority under the Tamil Nadu Shops and Establishments Act
Madurai.

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R.VIJAYAKUMAR,J.

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