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**(2014) 04 KAR CK 0270**

**In the Karnataka High Court**

**Case No : Writ Petition No. 58786 of 2013 (L-TER)**

M. Babu

APPELLANT

Vs

The Management of Presscom Products

RESPONDENT

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**Date of Decision : 24-04-2014**

**Acts Referred:**

Constitution of India, 1950 — Article 227  
Industrial Disputes Act, 1947 — Section 10(4-A), 33-C(2)

**Citation : (2015) 144 FLR 151 : (2014) 4 KarLJ 617**

**Hon'ble Judges : Ram Mohan Reddy, J**

**Bench : Single Bench**

**Advocate : A.J. Srinivasan, Advocate for the Appellant**

**Final Decision : Dismissed**

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## **Judgement**

Ram Mohan Reddy, J.—Petitioner aggrieved by the award dated 3-9-2012 Annexure-K, rejecting I.D. No. 38 of 2008 of the Presiding Officer, Principal Labour Court, Bangalore, has presented this petition invoking Article 227 of the Constitution of India.

Facts briefly stated are:

(i) petitioner when in the employment of the respondent from the year 1994 as helper, claims to have rendered service blemishlessly until the year 2008;

(ii) alleging that the respondent-employer with an intention to eliminate senior workers and to avoid payment of high wages took undue advantage of petitioner's helpless condition since he was suffering from ill health, terminated his service from February 2008 under the guise of petitioner allegedly opting for Voluntary Retirement Scheme and receiving Rs. 1,00,000/-, although the said sum was paid as a loan to meet expenses for medical treatment;

(iii) petitioner asserted that Rs. 1,00,000/- is too meager a sum which could represent all the amounts he was entitled to, in law, on retirement;

(iv) after the medical treatment when duty report dated 20-2-2008 was rejected, filed the petition invoking Section 10(4-A) of the Industrial Disputes Act, 1947 within six months from 20-2-2008, registered as I.D. No. 38 of 2008 before the Presiding Officer, Principal Labour Court, Bangalore.

2. Respondent on notice entered appearance and resisted the petition by filing counter statement, inter alia, contending that the services of the petitioner came to an end on opting for voluntary retirement. In addition, it was stated that the petitioner when employed by the respondent during the year 1986, abandoned the services during the year 1995 to serve M/s. Presstech Products, a unit run by the nephew of the proprietor of the management and worked there until 1998 and having left that employment once again joined the services of the respondent on 1-4-1998. It was further stated that on 16-10-1999 petitioner left the employment and withdrew the PF amount accumulated in his account on the premise that his resignation was accepted and thereafter once again sought employment in the respondent on 1-6-2000 whence he worked upto 20-12-2007, on which date tendered his resignation due to ill health, which when accepted, the petitioner was relieved from duties and by way of settlement was paid Rs. 1,00,000/- by way of a bankers cheque dated 24-1-2008 which was encashed, without protest. The allegations that the respondent had forcibly taken the signature of the petitioner on the letters dated 20-12-2007, 26-12-2007 and took undue advantage etc. were denied.

3. In the premise of the pleadings of the parties, the Labour Court framed issues and by order dated 16-11-2011 recast the issues as follows:

1. Whether the first party applicant proves that he is terminated from service by the second party management on 20-2-2008?

2. Whether the second party management proves that the first party applicant voluntarily tendered resignation on 26-12-2007 and the same came to be accepted and accounts came to be settled?

3. What order and award?

4. Respondent examined three witnesses as M.W.S. 1 to 3 and marked documents M. 1 to M. 25, while the petitioner was examined as W.W. 1 and marked Exs. W. 1 to W. 36. The Principal Labour Court having appreciated the evidence both oral and documentary, observed that the documents placed on record more appropriately Ex. M. 2 dated 20-12-2007 the letter of resignation by the petitioner coupled with the receipt of the bankers cheque for Rs. 1,00,000/- on 24-1-2008 declined to accept the plea of the petitioner that the said letter though contained his signature was taken on a blank paper and accordingly rejected the testimony of W.W. 1 being self-interested and uncorroborated. The Labour Court in great elaborate extracted relevant particulars from the material on record and declined to accept the vacillatory pleas of the petitioner that he had signed Ex. M. 1 on 26-12-2007 and in another breath on 24-1-2008. The testimony of the petitioner examined as W.W. 1 was rejected as not worthy of

acceptance regard been had to Exs. M. 1 to M. 25 of the respondent-management and more appropriately Ex. M. 2 dated 24-1-2008, the letter of acceptance of resignation acknowledged by the petitioner. The said Court further noticed that it was not the petitioner alone who had submitted resignation letters and that there were two other employees by name Venkatesh and Girish, who too had submitted resignation letters which were accepted. In fact petitioner had on an earlier occasion too by Ex. M. 10 letter of October 1999 tendered his resignation and left the services, of the respondent which was intimated to the Commissioner of Provident Fund and there afterwards in the month of June 2000 under Ex. M. 11 was appointed afresh. In the absence of substantial legal evidence of the fact that the letter of resignation of the petitioner was under the pressure of the respondent-management, the Labour Court was not impressed by the petitioner's plea. In addition, the Labour Court observed that merely because there is no enumeration of different heads under which amounts were paid by way of settlement though petitioner received Rs. 1,00,000/-, there was nothing to suggest that Ex. M. 2 was not a letter of acceptance of resignation. The Labour Court having applied its mind to the 11 reported opinions referred to by the petitioner, observed that the facts of those cases since not identical were inapplicable, as observed at paragraphs 28 to 37 of the award impugned. Lastly, the Labour Court observed that if the petitioner was entitled to in law for any amount in excess of Rs. 1,00,000/-, it is open for him to invoke Section 33-C(2) of the Industrial Disputes Act, to recover the said sums from the respondent-employer. Although learned Counsel for the petitioner reiterates the very same submissions made before the Labour Court, when considered and rejected due to lack of evidence over the allegations being disputed questions of fact and keeping in mind the jurisdiction under Article 227 being supervisory, not requiring hearing of lengthy arguments or reappraisal of the evidence, both oral and documentary, and as the findings are not shown to be perverse or illegal, no exception can be taken to the conclusion arrived by the Labour Court. Petition devoid of merits is rejected.