

(2007) 09 MAD CK 0084

In the Madras High Court

Case No : Writ Petition No. 22397 of 2004 and WP.MP. No's. 1690 of 2006

S.N.D. Sampath

APPELLANT

Vs

Special Deputy Commissioner of Labour, (Appellate Authority
under Tamil Nadu Shops and Establishments Act, 1947) and
Others

RESPONDENT

Date of Decision : 13-09-2007

Acts Referred:

Citation : (2007) 09 MAD CK 0084

Hon'ble Judges : M. Chockalingam, J

Bench : Single Bench

Advocate : V. Prakash for P. Chandrasekaran, for the Appellant; N. Senthil Kumar, Additional Government Pleader for Respondent No. 1 and Ramasubramaniam Associates for Respondent Nos. 2 to 6, for the Respondent

Judgement

M. Chockalingam, J.—The petitioner has brought forth this writ petition seeking to issue a writ of Certiorarified mandamus calling for the

records of the first respondent in TSE IA No. 12 of 2003 in TSE No. 4 of 2003 dated 23.12.2003 and quash the same and further direct the first

respondent to dispose of the appeal on merits.

2. Affidavit filed in support of the petition is perused.

3. The Court heard the learned Counsel on either side.

4. From the submissions made by the learned Counsel for the petitioner and also looked into the materials available on record, it could be seen that

the petitioner joined service of the respondent company at its Registered Office at Chennai on 02.06.1980 as Clerk-cum-Typist at Bangalore and

was confirmed in January 1981 and he was subsequently promoted as Junior Assistant in the year 1983 and he was transferred to Belgaum and he

was promoted as Senior Assistant and transferred to Mangalore in the year 1988 and in the year 1996, he was promoted as Management

Assistant MS-1. From Mangalore, he was transferred to Panaji, Goa in the year 2001. He was in the sale Depot at Panaji, Goa, While he was

attending clerical work relating to sales, on 18.1.2003, the Operation Manager (West), the fourth respondent herein and Mr. Sabu Varghese,

Office Manager in the District Office, Mumbai, the 5th respondent herein came to the depot and asked from him a letter of resignation saying that

the company has lost confidence in him and threatened either to resign or face the consequences. He had no intention of resigning, but however

due to the pressure exerted on him, he gave the letter of resignation and thereafter he rushed to Chennai and met the General Manager (Marketing)

and told that the resignation letter was obtained under threat and he did not want to resign from service. He gave representation to the superiors

about the same and also to the higher-ups stating that the the resignation letter was obtained from him under coercion and stated that he was

withdrawing the resignation letter and he also sent the same by fax on 24.01.2003 with a copy to the District Manger (Mumbai) and also to the

Executive Director (Marketing), the General Manager (Marketing) and the Chief General Manager (Human Resource and Service),Chennai. After

having got the withdrawal letter withdrawing the resignation, on 25.01.2003 the petitioner received a telegram from the third respondent accepting

the resignation and he also sent a letter dated 4.2.2003 confirming the contents of the said telegram. Thereafter, the petitioner preferred an appeal

before the first respondent along with condonation of delay of 6 days in filing the appeal challenging the decision of the respondent management

purportedly treating him as having resigned from service. Subsequently, the respondent management had filed their preliminary objection on the

maintainability of the said appeal. The first respondent, on enquiry, has upheld the preliminary objections of the respondent Management and

directed the petitioner to make his appeal before the authority at Goa under the Goa Shops and Establishment Act. Aggrieved over the same, the

above writ petition has been brought forth by the petitioner before this Court.

5. The Court heard the learned Counsel for the respondents on the above contentions.

6. According to the counsel for the during the relevant time, when he tendered his resignation, he was actually working in the company in Goa.

Thereafter, though he has withdrawn his resignation from Chennai, the challenge has to be made only before the authority at Goa under the Goa

Shops and Establishment Act at Chennai. Hence, the objections raised by the respondent management is correct and the writ petition has got to be dismissed.

7. The Court paid its anxious consideration of the submissions made.

8. The order of the first respondent has to be quashed on the short ground that originally the petitioner was appointed in Chennai and during the

relevant point of time he was put in service at Goa and under the compelled circumstances, the resignation letter was obtained from him and

thereafter he rushed to Chennai and sent the withdrawal of his resignation taking into consideration the fact that he got cause of action to challenge

the same in both the places and non acceptance of the withdrawal of the resignation either at Goa or at Chennai under the respective Shops and

Establishment Act. Learned Counsel for the petitioner has relied on a decision reported in *Bikash Bhushan Ghosh and Others Vs. Novartis India*

Limited and Another, wherein it has been held that where cause of action arising in more than one State in respect of the jurisdiction to refer and

entertain an Industrial dispute, the State Government of the State, where part of cause action would arise, would also have jurisdiction to make the

reference. Applying the said ratio, this Court is of the considered opinion that the first respondent has got jurisdiction to entertain the matter

between the parties and hence the order of the first respondent is set aside with a direction to the first respondent to take up afresh and proceed on

merits and pass orders in accordance with law, within a period of three months from the date of receipt of a copy of this order.

9. With the above observation, the writ petition is disposed of. No costs. Consequently, WP.MP. No. 1690 of 2006 is closed.