
(2002) 02 MAD CK 0131

In the Madras High Court

Case No : Writ Petition No. 7643 of 1997 and W.P.M.P. No's. 12328 of 1997 and 4122 and 4123 of 1998

The Managing Director, Needle Industries India Ltd., Ketti

APPELLANT

Vs

The Presiding Officer, Labour Court, Coimbatore and C.
Murugesan

RESPONDENT

Date of Decision : 05-02-2002

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2002) 02 MAD CK 0131

Hon'ble Judges : V. Kanagaraj, J

Bench : Single Bench

Advocate : Sanjay Mohan, for S. Ramasubramaniam Associates, for the Appellant; V. Prakash, for M. Ramamoorthy and G. Rama Priya, for the Respondent

Final Decision : Dismissed

Judgement

V. Kanagaraj, J.—Petitioner company, seeking to issue a Writ of Certiorari calling for the records of the first respondent in I.D.No.323 of 1994 and quash the same has filed this writ petition.

2. In the affidavit filed in support of the writ petition, the petitioner would submit that it is a company incorporated under the Companies Act and is engaged in the manufacture of needles; that the second respondent herein was working as Unskilled Grade-II Workman in the petitioner company from 1.1.1974 and he submitted his resignation to the Works Manager of the petitioner company on 9.6.1992 on ground that he was unable to come to work continuously on account of ill-health; that the resignation was recommended by the Works Manager and accepted w.e.f. 9.6.1992 with intimation to the second respondent that day itself further advising him to contact the Accounts Division for settlement of his accounts on 19.6.1992; that though he came on 9.6.1992, the second respondent did not report to work, which is evident from the non punching of the

time card; that however, since the second respondent remained absent from 6.6.1992, he was relieved from service w.e.f. 5.6.1992, the last day that he reported for work.

3. The petitioner would further submit that subsequently, the second respondent issued a telegram on 11.6.1992 followed by a letter dated 13.6.1992 alleging certain charges against the Works Manager and this letter was reviewed by the Senior Vice President of the petitioner company and a reply was sent on 16.6.1992 and on being satisfied that there was no coercion or threat in obtaining the resignation of the second respondent, the Senior Vice President of the petitioner company accepted the resignation of the petitioner; that thereafter, the second respondent submitted a petition on 26.6.1992 to the Senior Manager Personnel of the petitioner company requesting revocation of his resignation and the Senior Personnel Manager, explaining the second respondent that his request could not be complied with, had rejected the application of the second respondent workman dated 26.6.1992, by his order dated 2.7.1992; that the second respondent, however stating that he is entitled to withdraw his resignation letter before the expiry of 15 days notice period, by his letter dated 24.12.1992, has requested the management to reconsider his resignation, which was rejected by the management by letter dated 31.12.1992 and thereafter, the second respondent raised an industrial dispute before the first respondent in I.D.No.323 of 1994 and the first respondent would conduct a thorough enquiry into the matter, wherein on behalf of the workman, the workman besides examining himself as P.W.1 would also examine two more witnesses as P.Ws.2 and 3 for oral evidence and would mark nine documents for documentary evidence and on behalf of the Management, they would examine one witness for oral evidence as M.W.1 and would mark 10 documents for documentary evidence; that the workman, as W.W.1 before the Labour Court clearly explained that there was no force or coercion by the Management in getting the resignation of the second respondent/workman, but the first respondent, passed the impugned award dated 27.11.1996, thereby ordering the reinstatement of the workman with 50% backwages and with continuity of service. Aggrieved, the petitioner/Management has come forward to file the above writ petition with the prayers extracted supra.

4. In the counter affidavit filed on behalf of the second respondent, besides generally denying the allegations of the writ petition, would further allege that he was employed as a Skilled Grade-I Worker in the writ petitioner company and not as unskilled Grade-II Worker as it is falsely alleged on the part of the petitioner; that he is an active member of the Needle Industries Employees Progressive Union, which is affiliated to the labour Progressive Federation; that the Management, which is in the habit of victimising the members of the said Union particularly the key activists with the view to destroy the Union, on 9.6.1992, had victimised him and obtained a letter of resignation under coercion as though he was resigning from the services of the company and did not allow him to work thereafter and hence he raised the industrial dispute; that the Labour Court, by

its Award dated 27.11.1996, held his discharge from service invalid and directed the petitioner company to reinstate him in service with 50% backwages and continuity of service; that against this Award only, the writ petitioner has filed the above writ petition on false averments; that there is no error apparent on the face of the award meriting interference of this Court. On such averments, the second respondent would pray to dismiss the above writ petition.

5. At the time of admission of this writ petition, a learned single Judge of this Court has ordered interim stay of the impugned award, by order dated 3.6.1997 and then the second respondent/workman has come forward to file two petitions in W.P.M.P.Nos.4122 and 4123 of 1998 respectively to vacate the interim stay dated 3.6.1997 and to direct the Management to pay the workman the last drawn wages at the rate of Rs.1,750/= per month, pending disposal of the writ petition and the learned Judge hearing all the petitions, by order dated 16.3.1999 had ordered making the interim stay granted absolute on condition that the Management should deposit a sum of Rs.40,000/= before the first respondent within a period of six weeks further directing the Labour Court to invest the same in anyone of the nationalised banks initially for a period of three years in fixed deposit. The learned Judge had also permitted the workman to withdraw the accrued interest directly from the Bank once in three months further requiring the management to pay a sum of Rs.13,000/= by way of Demand Draft in favour of the workman within a period of four weeks and also continue to pay to the workman, the last drawn wages viz. Rs.1,530/= p.m. commencing from March, 1999 on or before 5th of every succeeding month.

6. When the above matter was taken up for consideration, the learned counsel appearing on behalf of the petitioner, besides laying emphasis on the grounds of writ petition, would crisply argue to the effect that if the resignation is withdrawn before the acceptance, the Tribunal might have held that the acceptance was present and therefore there was non-employment; that it is relevant to see whether the Tribunal's reasoning is supported by any documentary evidence with reference to the dates. The learned counsel would vehemently rebut the allegation that the resignation letter was obtained from the second respondent by coercion and threat and would say that if the matter is to be decided on merit and facts revealed, the Tribunal should have dismissed the application of the second respondent. On such arguments, the learned counsel for the petitioner would pray to allow the writ petition to the prayer of the same.

7. On the contrary, the learned counsel appearing on behalf of the second respondent/workman would submit that it is a case of resignation dated 9.6.1992 and withdrawal dated 11.6.1992; that Standing Orders provide for 14 days notice for acceptance; that in the present case, the Management never gave any notice at all. The learned counsel would submit that the workman was forced to resign from his services. At this juncture, submitting that under Article 226 of the Constitution, the High Court cannot sit in appeal over the findings recorded by a competent Tribunal, the learned counsel for the second respondent/

workman would cite a judgment of the Apex Court delivered in Shama Prashant Raje Vs. Ganpatrao and Others, , wherein the Apex Court has held:

"In a proceeding under Articles 226 and 227 of the Constitution, the High Court cannot sit in appeal over the findings recorded by a competent Tribunal. The jurisdiction of the High Court, therefore is supervisory and not appellate. Consequently, Article 226 is not intended to enable the High Court to convert itself into a court of appeal and examine for itself the correctness of the decision impugned and decide what is the proper view to be taken or order to be made. But notwithstanding the same, on a mere perusal of the order of an inferior Tribunal if the High Court comes to a conclusion that such Tribunal has committed manifest error by misconstruing certain documents, or the High Court comes to the conclusion that on the materials it is not possible for a reasonable man to come to a conclusion arrived at by the inferior Tribunal or the inferior Tribunal has ignored to take into consideration certain relevant materials or has taken into consideration certain materials which are not admissible, then the High Court will be fully justified in interfering with the findings of the inferior Tribunal."

Citing the above judgment of the Apex Court, the learned counsel for the second respondent/workman would further submit that there are no such circumstances, as mentioned by the Apex Court in the above judgment, for this Court to cause its interference into the well considered award passed by the labour Court and would pray to dismiss the above writ petition with costs.

8. In consideration of the pleadings by parties, having regard to the materials placed on record and upon hearing the learned counsel for both, what comes to be known is that it is a case of resignation by an employee from service on 9.6.1992 and the acceptance of the resignation also with effects from the close of business on 5.6.1992 further advising the employee to contact the Accounts Section for settlement of benefits. On the part of the writ petitioner/ Management, it would be contended that the second respondent personally came on 9.6.1992 and handed over the resignation letter, but did not report for work and that he remained absent from 6.6.1992 itself and therefore he was relieved from the close of business on 5.6.1992, that is the last date that the workman reported for work and accepting the resignation and passing the orders accordingly.

9. On the part of the second respondent employee, he would submit that neither the resignation was voluntary as it is falsely alleged on the part of the Management nor could the acceptance be done in the manner revealed in the petition i.e. from the same day since the law requires 14 days prior notice for such acceptance. He would go a step further to say that he was rather forced to give such a resignation letter by coercion and threat and therefore by letter dated 11.6.1992, he requested the management to revoke his resignation and since the same was rejected by the Management by their letter dated 16.6.1992, the workman has again requested the management to reconsider his case,

bringing to fore the legal requirement of 14 days notice by his letter dated 26.6.1992 and since the management has rejected the said letter also, he raised the industrial dispute in I.D.No.323 of 1994 before the Labour Court, Coimbatore.

10. A perusal of the Award passed by the first respondent/Labour Court in the above industrial dispute would reveal that the Labour Court had not only traced the facts and circumstances of the case as projected by parties, but framing two points for determination of the questions involved in the dispute and with due opportunity for parties to be heard, it had conducted a full enquiry and in appreciation of the facts and circumstances of the case in the light of the evidence, the Labour Court had decided the industrial dispute raised before it in the manner stated supra.

11. During the course of enquiry before the Labour Court, the workman besides examining himself as P.W.1 would also examine two other witnesses as P.Ws.2 and 3 for oral evidence. For documentary evidence, on the part of the workman, nine documents would be marked as Exs.P.1 to P.9, Ex.P.1 dated 9.6.1992 being the resignation letter given by the workman to the Management of the petitioner company, Ex.P.2 dated 9.6.1992 being the resignation acceptance order of the management, Ex.P.3 is the telegram, Ex.P.4 dated 13.6.1992, Ex.P.5 dated 15.5.1992, Ex.P.6 dated 24.12.1992, Ex.P.7 dated 31.12.1992 and Ex.P.8 dated 20.6.1992 are the exchange of letters and Ex.P.9 are the certified copies of orders.

12. Likewise, on the part of the Management, they would examine one witness as M.W.1 and mark 10 documents as Exs.R.1 to R.10, Ex.R.1 dated 9.6.1992 being the resignation letter given by the workman, Ex.R.2 dated 2.6.1992 being the letter of acceptance, Ex.R.3 being the telegram, Exs.R.4 to R.6 being the letters of worker and Exs.R.7 to R.10 being the letters of the Management.

13. The first respondent/Labour Court would frame two points for determination viz.

i) whether the letter of resignation of the workman had been accepted in the proper manner? And

ii) whether the workman is entitled to the relief sought for?

Then, the Labour Court would have its own discussion on facts and circumstances wherein the Labour Court had occasion to see that the workman had been employed in the company as a permanent employee from July 1974 to 9.6.1992 and the last drawn salary was Rs.1,530/=; that on 9.6.1992, the workman came to the factory to seek the extension of leave and at that time, he was threatened and the letter of resignation was obtained byway of coercion and in spite of the best efforts of the workman to withdraw the same, the Management did not allow him to do so and therefore the workman had raised the industrial dispute.

14. Assessing the oral evidence adduced on the part of the workman and two

other witnesses, who were the co-workers, the Labour Court would find that P.Ws.2 and 3 would depose that the workman/P.W.1 was threatened by the Personnel Manager of the management by saying that if he did not sign the resignation letter, he would be entrusted with the police and under such contingencies, without having any other way out, the workman had to sign the letter of resignation dated 9.6.1992; that thereafter the workman had issued the telegram dated 11.6.1992. The said Personnel Manager of the Management is one Raj Kumar who is none but M.W.1 and his evidence would also be taken into account for discussion by the Labour Court, who has deposed to the effect of submission of the letter of resignation voluntarily by the workman and its acceptance on the same day having been forwarded to the higher authorities. P.Ws.2 and 3 examined on the part of the workman would also speak to the effect that the workman had attended the factory on 9.6.1992 on being summoned by the Management to attend to the Manager's room and there was no wordy altercation and thereafter the workman came and informed them that under threat, a letter of resignation was extracted from him by the Management.

15. The Labour Court had also gone into the documentary evidence produced on both sides and the Labour Court is able to see the adamant nature of the Management in not giving vent to the move of withdrawal of the resignation and ultimately from the standing orders produced and marked as Ex.P.9, the Labour Court below would find that prior to superannuation, if the employees want to retire, they must issue a notice giving a time of 14 days for the Management to consider such a move and since this notice is mandatory and the same has not been given in the case in hand, easy conclusions have been arrived at by the Labour Court answering the Point No.1 stating that the letter of resignation of the second respondent had not been properly accepted thus deciding this point in favour of the employee and against the Management.

16. Again focussing its attention on Point No.2, the Labour Court would see that the second respondent had already worked for 18 years and at the time of deposing, he was 44 years and still 14 years of service was left with for him and moreover the Management had no complaints of the record of past of the second respondent and hence the Labour Court would order reinstatement of the second respondent in service with continuity of service and 50% backwages, thus deciding the second point also in favour of the workman and against the Management.

17. From the entire proceedings of the Labour Court below in the case of the industrial dispute raised on the part of the second respondent, it is clear that the Labour Court, assessing the facts and circumstances in the proper manner and allowing the parties to record their evidence, affording them due opportunity for being heard and on recording such evidence, framing proper points for determination of the questions involved, would discuss the facts and circumstances of the case in the light of the evidence placed on record and in due consideration of the position of law on the subject and both factually and on

legal questions, would arrive at the unshakable conclusion to allow the application filed on the part of the second respondent herein before it.

18. It is not only the very conclusions arrived at by the Labour Court but also the manner in which such conclusions have been arrived at are quite appreciable and no error apparent and perversity in approach could be seen in the decision of the Labour Court nor even any legal infirmity or inconsistency has crept into the decision of the Labour Court and therefore the interference of this Court sought to be made into such a well considered and merited Award passed by the Labour Court, Coimbatore is neither necessary nor warranted in the circumstances of the case or under law.

In result, the above writ petition is without merit and the same is dismissed as such.

The Award dated 27.11.1996 made in I.D.No.323 of 1994 by the Labour Court, Coimbatore is hereby confirmed.

However, in the circumstances of the case, there shall be no order as to costs.

Consequently, W.P.M.P.Nos.12328 of 1997, 4122 and 4123 of 1998 are closed.