

G.C. Day Vs. the Management of Eureka Forbes Ltd. and anr.

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Court : Delhi

Decided On : Jul-28-2009

Reported in : (2010)ILLJ128Del

Judge : S.N. Aggarwal, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P.(C) No. 4434/2003

Appellant : G.C. Day

Respondent : The Management of Eureka Forbes Ltd. and anr.

Advocate for Def. : A.K. Goyal, Adv. for Respondent No. 1

Advocate for Pet/Ap. : R.K. Gupta, Adv

Disposition : Petition dismissed

Judgement :

S.N. Aggarwal, J.

1. This writ petition filed by the workman (the petitioner herein) is directed against an industrial award dated 13.12.2002 passed by Mr. Pradeep Chaddah, then Presiding Officer, Labour Court II, Delhi declining any relief to him. Vide impugned award, the Industrial Adjudicator has held that the petitioner has left the service of

the management (respondent No. 1 herein) of his own, voluntarily and without there being any pressure on him.

2. Briefly stated the facts of the case relevant for disposal of this writ petition are that the petitioner was appointed as a Service Technician with respondent No. 1 w.e.f. 12.05.1986. His last drawn wages was Rs. 4,809/- per month. On 15.04.1994, he tendered his resignation and requested the management to relieve him from its service w.e.f. 30.06.1994 as he no longer wanted to continue in its service for his problems on domestic front. The resignation tendered by the petitioner was accepted by the management on 16.04.1994 by making an endorsement at the foot of the resignation letter to the effect that the petitioner would be relieved from the duties w.e.f. 31.07.1994 as he was asked to complete the works pending with him by that time. The petitioner was relieved by the management w.e.f. 31.07.1994 vide letter dated 31.07.1994, a true typed copy of which is Annexure 'E' at page 25 of the paper book. After the petitioner was relieved by the management w.e.f. 31.07.1994, he sent a telegram to the management on 09.08.1994 which is Annexure 'F' at page 26 of the paper book in which he lodged a protest against taking his resignation under duress. The petitioner is also stated to have sent a letter dated 22.08.1994 to the management which is Annexure 'G' at page 27 of the paper book asking the management to allow him to withdraw his resignation as it was taken under duress. Since the management did not concede to the request of the petitioner, he raised an industrial dispute with regard to his termination which was referred by the appropriate Government for adjudication to the Labour Court. The Labour Court vide its impugned award on the basis of evidence adduced by the parties before it reached to a conclusion that the petitioner had resigned on 15.04.1994 voluntarily and without there being any pressure on him. It is aggrieved by this finding of the court below that the petitioner has filed this writ petition seeking setting aside of the said award.

3. Mr. R.K. Gupta learned Counsel appearing on behalf of the petitioner has relied upon a judgment of the Hon'ble Supreme Court in J.K. Cotton Spinning & Weaving Mills Co. Ltd. v. State of U.P. and Ors. (1994) SCC 27 and on the strength of this judgment, he has argued that since the resignation of the petitioner was obtained

by the management under pressure and duress, resignation letter given by him ceased to have any legal effect. I have given my anxious consideration to this argument advanced by the petitioner's learned Counsel but I have not been able to persuade myself to agree with him. The judgment relied upon by the petitioner's learned Counsel has no application to the facts of this case. The judgment of the Hon'ble Supreme Court in J.K. Cotton Spinning & Weaving Mills Co. Ltd.'s case (Supra) can help the petitioner only in case it is found that the resignation letter pursuant to which the petitioner was relieved w.e.f. 31.07.1994 had been obtained by duress or under pressure as alleged by him.

4. The only question that needs to be considered in this petition is whether the management had obtained the resignation dated 15.04.1994 from the petitioner under pressure or coercion as alleged by him. To decide this question, it will be relevant to refer to the resignation letter of the petitioner which is extracted below:

To

The Personnel Officer,

Eureka Forbes Limited,

N.D.

Sir,

Due to uncertain unavoidable circumstances prevailing in my domestic front, I would not in a position to continue my service with Eureka Forbes Limited.

This may be as my letter of resignation and may be relieved from 30.06.1994.

Thanking you,

Yours faithfully,

(G.C. Dey)

5. I have carefully perused the impugned award as well as the file of the Labour Court. The petitioner in his cross-examination has admitted that the resignation

letter dated 15.04.1994 Ex. WW-1/M1 was given by him. A perusal of the said resignation letter reveals that it is a handwritten resignation letter and in the course of hearing, learned Counsel appearing on behalf of the petitioner on instructions from his client admits that writing on this letter is that of the petitioner. The petitioner was appointed as a Service Technician with the management. He does not appear to be an illiterate person. On being asked, learned Counsel appearing on behalf of the petitioner on instructions from his client has submitted that his client has done his ITI after 10th pass. In case the resignation letter dated 15.04.1994 was obtained under pressure or coercion then the petitioner could have lodged a protest in this regard immediately instead of waiting for his relieving from the service of the management w.e.f. 31.07.1994.

6. There is another aspect of the matter which needs consideration and that is that as per the resignation letter dated 15.04.1994 (Ex.WW-1/M1), the workman had requested the management that he should be relieved from its service by 30.06.1994 then why he was relieved after a month w.e.f. 31.07.1994? The answer to this question is found in the endorsement made by the management at the foot of the resignation letter stating that the resignation given by the petitioner has been accepted by the management w.e.f. 31.07.1994 because of certain works pending with the petitioner. It is why the petitioner was relieved from the service of the management w.e.f. 31.07.1994 instead of date of 30.06.1994 mentioned in his resignation.

7. The plea taken by the petitioner that his resignation letter dated 15.04.1994 Ex. WW-1/M1 was obtained by the management under duress or pressure is also falsified by the statement of the management's witness Mr. Mohit Mathur in para 3 of his affidavit filed before the Industrial Adjudicator where he has categorically stated that the workman had submitted his resignation of his own, voluntarily and that no officer of the management had coerced or forced him to submit his resignation as alleged by him. There is absolutely no cross-examination worth the name on this aspect of the matter. It was not even suggested by the petitioner to this witness in his cross-examination that his resignation was obtained under pressure or duress. Hence the plea taken by the petitioner that his resignation was obtained under duress is not at all acceptable.

8. For the foregoing reasons, I do not find any reason to interfere in the impugned award in exercise of extraordinary discretionary writ jurisdiction by this Court under Article 226 of the [Constitution of India](#). This writ petition therefore fails and is hereby dismissed.

9. LCR be sent back.

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