

LABOUR DEPARTMENT

From
Labour Officer
Collectrate Campus
Ist floor,
Tirupur

To
A.R.Raguraj,
S/O Ramdas
1.Suriya Nagar,
Near Weaver's Colony, THirumurugapandi,
Avinashi TK, Tirupur

D.No.295/2016 Dated .09.2016

Sir,

Sub: Court Judgment from Labor Court, Coimbatore

A.R.Raguraj

VS

Meridian Apparels Ltd., Angeripalayam Road, Tirupur-3

Case ID No: 184/2011 Dated: 18.07.2016 Judgment received- reg

Ref: Letter 15982/D/D1/2018-1 Dated 12.08.2016 from Joint Secretary of Labour & Employment Department, Chennai.

Sir,

With reference to the letter 15982/D/D1/2018-1 Dated 12.08.2016 from Joint Secretary of Labor & Employment Department, Chennai, pertaining to the subject as found above, Case ID No: 184/2011 Dated: 18.07.2016, a copy of which is displayed at this office herewith has been sent you.

Labour Officer (In charge)
Tirupur

Encl:

Copy of Coimbatore Labour Court judgment

Case ID No: 184/2011 Dated: 18.07.2016

Copy to:

Management

Meridian Apparels Ltd.,

Angeripalayam Road,

Tirupur-3

Management

Meridian Apparels Ltd.,

Angeripalayam Road,

Tirupur-3

LABOR COURT, COIMBATORE

In Presence of :Thiru M.Srinivasan BSc., B.L.,
Chief Operating Officer (Full Responsibility)
Labour Court, Coimbatore

Year 2016, July Month, date 19, Tuesday

Industries Dispute No: 184/2011 Dated: 18.07.2016

A.R.Raguraj, -----Petitioner
S/O Ramdas
1.Suriya Nagar,
Near Weaver's Colony, Thirumurugapandi,
Avinashi TK,
Tirupur

VS

Management -----Respondent
Meridian Apparels Ltd.,
Angeripalayam Road,
Tirupur-3

On 14.07.2016 when this case came for final hearing at this court, Thiru.Adv. A.Prabhu on behalf of the petitioner and Adv.M.R.Manohar on behalf of the respondent were present. Based on the investigation and enquiries, case details being filed, response, evidence, relevant supporting documents, this court now render final judgment as follows,

JUDGMENT

Under Industries Dispute Act-1947 Sec 2a 2, the petitioner appealed the Court to order the Company Management to withdraw their oral termination of employment order on 01.09.2009 they conveyed to the petitioner and to assure continued job along with salary for the duration of termination along with all other benefits as applicable.

2) Glimpse of information found in the petition:

On 02.09.1996, the petitioner joined in the firm of the respondent as Electrician and has been sincere in jobs working as a continued permanent employee of the firm. Without any faults he

was obedient to whatever works being assigned by the management. Recently, the company gave rs.5484/- as monthly salary. The petitioner's date of birth is 06.07.1972 and his present age is 39. On 30.05.2009, the company management laid a false accuse on the petitioner stating that he was drunken and slept during the working hours and forced to write a resignation letter. On 01.09.2009, while the petitioner went for job as usual to the company, the HR Manager of the company refused to allow him to work stating that there is no space for drunken-workers to work in the company.

Later, the petitioner has approached the company management to withdraw the oral termination and to give him continued work, but ended in vain since the company management never considered his plea.

On 30.06.2010, the company management rendered a petition with false accusation that the petitioner and his Mother in Law have illegally occupied house and land which is owned by the company management. The company management said that in the petition, the company has raised question towards the petitioner for the reason for absent of duties since 26.11.2009 and since there was no response from the petitioner, on 09.12.2009, the company management has sent a termination order to the petitioner. But on the contrary, no such termination order the petitioner has received till date. Before preparing termination order, the company management has not arranged for an enquiry with the petitioner pertaining to the accusations laid and no notice prepared on this issue. No prior intimation or compensation given to the petitioner before termination order. The act of company management found to be illegal and against the nature of ethics. Pertaining to this termination of duties, the petitioner filed a case in front of the Labor Officer, Coimbatore on 10.02.2011, petition no 2(a)1. Followed by a mediation in which the respondent, the company management appealed in person against the petitioner. Due to the adamant act of the company management the mediation was dropped on 07.07.2011.

After the termination, the petitioner could not get a job in spite of many efforts. Along with the family, the petitioner struggles without any income. Therefore an order to be placed to the respondent to withdraw the oral termination and to ensure continued job in the company with salary for the termination period and other liable benefits.

3) Statement of Respondent

The petition is not valid for legal consideration. Whatever were appealed, the petitioner should be responsible to prove it. On 30.05.2009, when the HR Manager of the Company Management came for inspection in ETP Rood (Computer) he saw the petitioner sleeping and found drunken. Since the petitioner could not get up, the HR Manager called in security staff asked them to bring the petitioner. But the petitioner out of fear and guilt, refused to come out. Afterwards, the petitioner stopped coming to work in the respondent Company. But on 03.09.2009, the petitioner came to the Company in person and has given an apology letter in write up to the Company

management stating, on 30.08.2009, he out of drunken slept off in the ETP Computer Room and out of fear and guilt refused to come out and face the HR Manager and expressed his regrets and requested to rejoin the company with assurance that he should never do this act in future. Further, 01.09.2009 onwards again the petitioner stopped coming to work. In this regard, the Company Management sent a notice to the petitioner asking for a written statement from the petitioner for the reasons he failed to attend duties. But the petitioner failed to respond it and remained absent for duties. Eventually, company management terminated the petitioner with a termination order dated 09.12.2009.

In addition, the respondent- company management deposited amount: 49,006/- as final settlement, Cheque no: 139311, Dated: 06.03.2010, Union Bank of India in the petitioner's Account number: 20165006.

With acceptance of termination order from the company on 30.06.2010, the petitioner requested to deposit PF amount in his bank account he mentioned. Further, the company management allowed the petitioner to reside in a small house situated in 6 acres & 11 cents land, which is the property belong to the company management as long as he works in the company. Since the petitioner refused to vacate the said house and land after his termination, a case was filed against the petitioner and the case remains pending in proprietary court.

With the intention to abduct the property of the company management, the petitioner refused to vacate the house and land even after he has been terminated by the company management and this leads to Industrial Dispute case. After asking for the proper reasons for the illegal acts of the petitioner, the company management has terminated the petitioner in a proper way. Termination of the petitioner is based on legal act and as per moral ethics. With the intention to abduct the property of the company management, the petitioner refused to vacate the house and land even after he has been terminated by the company management and on the contrary, he blames the company management that we have terminated him illegally. Therefore this case needs to be cancelled.

The following issues to be clarified in this case

1. Is the oral termination of petitioner on 01.09.2009 nullify or not?
2. Is the petitioner is liable to get job reassurance along with salary and other benefits?
3. Evidence 1on behalf of the petitioner/ the employee has been investigated and documents 1- 11has been denoted. Evidence1 on behalf of the respondent/ the Company Management has been investigated and documents 1-8 has been denoted.

Judgment

Both the parties accepted that the petitioner was working as Electrician in Company, the respondent. On behalf of the petitioner, document- 1 appealed dated 19.11.1997. It is mentioned in the said document that the petitioner joined the firm on the above mentioned date, working since one and half years ago, drawing a salary of rs. 3750/- per month. Documents 2-5 are vouchers given by the company management to the petitioner during the year 2000. Through the document 1, the petitioner claim that on 01.09.2009 when the petitioner went to work, the company management refused him to work with the accusation that was drunken and slept during working hours earlier. Therefore is certain that the petitioner worked in the firm till 30.08.2009 and 01.09.2009 onwards the company refused him to continue his tenure. It is also evident that based on document-3, on 26.11.2009, the company management sent a notice to the petitioner asking for the reason in write up for not coming for work which is against the company's regulation without that, the company would go for legal action. But the said document 3 which is the notice never been received by the petitioner. Later, the company management took no steps in terms of mentioning the complete, right address of the petitioner even though said complete address is available in company records. The company management failed to give proper reason for this act. Further, as per the statement of the compant management that the petitioner was residing in house which is the property of the company and this actually is easy for communication but yet the company failed to do so, this cannot be acceptable. With reference to the document 4, the company management sent a termination letter to the petitioner dated 09.12.2009. In document 3, it is mentioned that from 01.09.2009 the petitioner stopped coming to work. Again, the company failed to take necessary steps for the document to reach the petitioner properly. In this situation, based on the Hon'ble High court judgment copy appealed by the petitioner, it is certain that, this is unlawful that the company management going for further actions without ensuring the notice and termination orders reached the petitioner properly and the any such action is invalid. Till this time of case proceeding, the said documents never reached the petitioner. Based on document 1, the petitioner evidently state that the petitioner never received document 3 sent by the company management. But the company management states that document 11, the notice was sent to the petitioner with clear Name & address of the petitioner. Therefore since the petitioner name and address is available in company records and the company management failed to resent the notice to the petitioner with right name and address, whatever actions the company tend to take against the petitioner is void. Further the petitioner was not called for a discussion to find the fact before terminating him. The petitioner states that it is completely wrong that without any enquiry the company terminated him with reference to the Madras High Court Judgment. With clarification of the above mentioned case, without making proper enquiry to find out the fact, the company terminating the petitioner is not accepted. But the respondent, the company management denies and state that since no response received from the petitioner for the notice the company on 09.11.2009 terminated the petitioner. It is certain from the appeal of the petitioner the termination order from the company cannot be

accepted since the notice was not received by the petitioner. The company could have clearly explained to the petitioner about the termination order, if the situation was that there was no space for internal fact finding enquiry. But there is no proof of such occurrence provided by the company. Based on document 1 and the appeal by the company that as per the code of conduct of the company, if an employee found guilty of indiscipline act, the company management will terminate the concern employee only after internal fact finding enquiries. Therefore based on the Company code of conduct, this termination order is void. Further, the petitioner states that, the company never requested the Court to give space for them to prove on the accusation laid on the petitioner during the appeal and memo submitted by the respondent pertaining to this. Therefore no steps were taken by the company management to prove the accusation on the petitioner. The company management appeals that since the petitioner already received complete settlement and no any pending settlement remains in this case for this the company management referred judgment of Karnataka High Court. But in this case we cannot consider the petitioner himself resigned the job. The respondent also not proven it. Therefore the above judgment reference is void in this case. The company failed to prove evidences that the petitioner accepted the termination order. Before the final settlement amount deposited in the petitioner bank account the company management never give information or get acceptance letter from the petitioner and also the company failed to prove that the petitioner gave acceptance letter for the termination order or any proof of resignation letter. But the petitioner stated that the company management forced orally on termination. Based on letter dated 30.06.2010 it is revealed that the petitioner requested the company management for settlement of PF amount. On contrary, as seen in document 7, rs.49006/- has been deposited in petitioner name, Union Bank of India on 26.03.2010. If the petitioner would accept the termination order and final settlement amount, he could have mentioned in his petition dated 30.06.2010 that he has received final settlement on 26.03.2010. But no such information mentioned in document 5 and therefore we cannot assume either the petitioner gave voluntary resignation or accepted the termination order. The judgment reference quoted by the company management is based only on willing, voluntary resignation and consequences. But in this case, the petitioner has not availed voluntary resignation also nowhere proven that he has accepted the termination order. Therefore the appeal by the company management that the petitioner received full settlement and ineligible to file case seems void. Also we cannot say that the petitioner having received the full settlement, ineligible to file a case. For this the petitioner referred Madras high court judgment order. Having received cash settlement, we cannot say that an employee has no rights to go for legal proceeding.

Therefore as stated above, the termination order by the company management is not based on the internal fact finding and not based on petitioner written response against the accusation laid. Therefore the termination order in against moral values and void not stands legally. The petitioner is an Electrician in the company. The petitioner stated that after the company terminated him, he struggled to find a job and had no income this he has proven in the appeal that he still remains jobless. The petitioner being an electrician (technical experience) stating that

he could not get a job in an industrial city like Tirupur, this cannot be accepted. Therefore the petitioner's request of salary during termination period is void. Since 2009, a technically experienced employee as a electrician remains jobless is not accepted.

Finally, this petition is partially accepted, it is ordered that the company should withdraw oral termination order on 01.09.2009. and also the company should ensure continued work in the company along with 50% of salary for the period during termination period. No other payment entertained.

On 19th July, 2016 Tuesday this final order was orally dictated by me to the typist, proof read by me and finally been printed through computer.

Officer In charge
Labor Court
COimbatore