

(2021) 10 TEL CK 0048

High Court For The State Of Telangana:: At Hyderabad

Case No: Writ Appeal No. 259 Of 2021

Mishra Dhatu Nigam Limited
And 2 Others

APPELLANT

Vs

K Yadagiri

RESPONDENT

Date of Decision: Oct. 27, 2021

Hon'ble Judges: Satish Chandra Sharma, CJ; A. Rajasheker Reddy, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

The present writ appeal is arising out of order dated 15.04.2021 passed by the learned Single Judge in W.P.No.22243 of 2020.

The facts of the case reveal that the respondent before this Court was appointed as a Lab Testing Operator through a process of selection in the year

1996 and he is working as Lab Testing Operator. There was some dispute in respect of non-regularization and he filed W.P.No.14542 of 1997 praying

for regularization before this Court and the stand of the respondent/writ petitioner is that because he has preferred a writ petition before this Court, he

was forced to submit his resignation by the employer. It has been stated that he has never at any point of time signed his resignation letter. However,

the resignation letter dated 25.01.2020 was accepted by the employer on 01.02.2020 and in those circumstances, he came up before this Court stating

that he never resigned and the action of the appellants in accepting the unsigned letter by treating it as a resignation is bad in law.

Learned Single Judge allowed the writ petition.

Operative paragraphs of the order of the learned Single Judge read as under:

4. Learned counsel for the petitioner contended that there is no signature on the resignation letter and when there is no signature, the respondents ought not to have acted upon the said letter. Therefore, any acceptance of the resignation based upon the so-called resignation letter dt.25-01-2020 is arbitrary, illegal and cannot be sustained at all. In the absence of signature on the resignation letter, the respondents could not have acted upon the said resignation to relieve the petitioner. Therefore, he contended that appropriate orders be passed in the Writ Petition by setting aside the impugned order dt.23-03-2020 and also the proceedings dt.01-02-2020 wherein the resignation of the petitioner was accepted and further direct the respondents to permit the petitioner to rejoin duty as Lab Testing Operator.

5. Learned Standing Counsel for the respondents had fairly conceded that there is no signature on the letter. However, she contended that pursuant to the acceptance of resignation of the petitioner vide proceedings dt.01-02-2020, the petitioner has received all the benefits and conduct of the petitioner itself shows that the petitioner has tendered resignation and the respondents have rightly rejected the case of the petitioner vide proceedings dt.23-03-2020. She further contended that having accepted the terminal benefits, the petitioner cannot turn around and contend that acceptance of resignation is bad in law. Therefore, there are no merits in the Writ Petition and the same is liable to be dismissed. She further contended that the withdrawal of resignation of the petitioner is an afterthought and having accepted the benefits in pursuance to the acceptance of resignation, the petitioner cannot be allowed to turn around and contend that it is forced resignation.

6. This Court, having regard to the rival submissions made by the parties, is of the considered view that though the so-called resignation was tendered by the petitioner on 25-01-2020, there is no signature on the said letter. In view of the same, the respondents could not have accepted the resignation of the petitioner on 01-02-2020. Therefore, orders dt.01-02-2020 wherein the petitioner's resignation was accepted as well as the proceedings dt.23-03-2020 rejecting the request of the petitioner to withdraw the resignation are also bad in law and accordingly both the orders are set aside.

However, it is made clear that if the petitioner refunds the entire benefits which he has received in pursuance to the acceptance of his resignation by

the respondents, the respondents shall entertain the petitioner to duty as Lab Testing Operator and the petitioner fulfils the criteria for regularization, the case of the petitioner should also be considered for regularization in accordance with Rules. The petitioner should refund the benefits which he has received in pursuance to the acceptance of the resignation within a reasonable period of time, preferably, within eight weeks from the date of receipt of a copy of this order.

7. With these observations, the Writ Petition is allowed. No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.â€

Being aggrieved by the order passed by the learned Single Judge, the present writ appeal has been filed and the stand of the employer is that though

the resignation letter does not bear the signature of the writ petitioner, it was written by him and, therefore, the same was accepted and the

acceptance letter was also received by him. It has been further stated that the respondent-employee has received all terminal dues and after receiving

all terminal dues, he is challenging the action of the Management in accepting the resignation letter.

Learned counsel for the appellants has placed heavy reliance upon a judgment delivered by the Honâ€™ble Supreme Court in the case of M/s. New

Victoria Mills and others v. Shrikant Arya Civil Appeal No.5685 of 2021 dt. 27.09.2021.

This Court has carefully gone through the aforesaid judgment and in the aforesaid judgment the resignation of the employee was accepted and the

employee therein was also paid terminal dues. The aforesaid case was a case of voluntary retirement under the scheme floated by the employer

therein and it was not a case of resigning from service. The judgment relied upon by the learned counsel is certainly distinguishable on facts. In the

instant case the undisputed facts reveal that the employee in question never at any point of time signed the resignation letter and, therefore, once the

resignation letter was not signed by him, it could not have been treated as a valid resignation letter by the employer. Meaning thereby, the employer

without verifying that there was no signature on the resignation letter has accepted the resignation letter. It has been vehemently argued before this

Court that the employee in question has received the terminal dues. Learned counsel for the employee has stated in this Court that the terminal dues

were transferred to the bank of the employee and he was not having any control to restrain the employer from transferring the terminal dues.

The another important aspect of this case is that this Court while issuing notice, directed the employee to deposit all terminal dues in the registry with

interest and the employee has deposited Rs.37,70,000/- paid to him with the registry of this Court and the same has been kept as fixed deposit in the

PD account of Registrar (Administration).

In the considered opinion of this Court the resignation letter was not bearing signature of the employee. He has stated on affidavit that he has never

resigned at any point of time and the acceptance in the absence of the signature of employee is certainly bad in law as held by the learned Single

Judge. This Court does not find any reason to interfere with the order passed by the learned Single Judge and the appellants/employer shall be entitled

to receive the amount deposited by the respondent/employee and the Registrar (Administration) shall transfer the amount to the account of the

employer as and when the details are furnished by the employer.

With the aforesaid, the writ appeal stands dismissed. The original record and the original so-called unsigned resignation letter have been handed over

to the learned counsel for the appellants in the open Court.

Miscellaneous petitions, if any, pending in this writ appeal shall stand closed. There shall be no order as to costs.