

**(2014) 1 CHN 138 : (2014) 140 FLR 253 : (2013) LabIC 3702 : (2013) 4 LLJ 471 :
(2014) LLR 27 : (2013) LLR 1247**

Calcutta High Court

Case No: A.P.O.T. No. 529 of 2012

Kesoram Industries Ltd.

APPELLANT

Vs

State of West Bengal
and Others

RESPONDENT

Date of Decision: Aug. 5, 2013

Citation: (2014) 1 CHN 138 : (2014) 140 FLR 253 : (2013) LabIC 3702 : (2013) 4 LLJ 471 :
(2014) LLR 27 : (2013) LLR 1247

Hon'ble Judges: Arun Mishra, C.J; Joymalya Bagchi, J

Bench: Division Bench

Advocate: Kallol Basu, A. Mitra and Ms. S. Chatterjee, for the Appellant; Rajen Dutta, for the Respondent

Final Decision: Dismissed

Judgement

Joymalya Bagchi, J.

The appellant has assailed the judgment and order dated 23.08.2012 passed by the learned single Judge dismissing the writ petition challenging the award dated 26th October, 2010 passed by the learned Judge, 8th Industrial Tribunal, West Bengal. It appears that a reference in respect of industrial dispute being case No. VIII-36-04 was made by the Government of West Bengal on the following issues:

1) Whether the claim of the order of reference for determination are wrongfully terminated by the Management of M/s. Kesoram Industries Ltd. w.e.f. 17.01.2002 by way of obtaining his resignation by force, is justified?

2) What relief, if any, is the workman entitled to?

2. The respondent was employed at M/s. Kesoram Industries Ltd. as a steno-typist as per appointment letter dated 16.03.1998. He claimed that he never tendered any resignation before his employer, namely, M/s. Kesoram Industries Ltd. He further alleged that his

purported resignation was forcefully obtained on a piece of paper at the instance of one Pradip Sarkar. His service was terminated on the basis of such purported resignation with effect from 17.01.2002.

3. The respondent employee deposed before the Industrial Tribunal and exhibited number of documents, including a General Diary, lodged with Hare Street Police Station on the self-same date on which he was forcefully made to write the aforesaid resignation letter.

4. On the other hand, the appellant company examined one S.K. Chamaria, a director of the company as O.P.W. 1 in support of its case.

5. After a detailed analysis of the evidence of both the parties and the exhibited documents, the tribunal came to a finding that the respondent/workman had not voluntarily resigned from the company. In view of such finding, the tribunal held that the respondent/workman's service was wrongly terminated with effect from 17.01.2002 and directed that he was entitled to get his arrear dues as accrued during his service tenure and a lump sum amount of 1,40,000/- as compensation within a month from the publication of the award.

6. The award was challenged before the learned single Judge and the learned single Judge dismissed the same on the ground that the same was just and reasonable and did not suffer from any patent illegality.

7. Mr. Basu, learned Advocate, appearing for the appellant submitted that the learned Judge failed to take into consideration the fact that the respondent/workman had withdrawn his provident fund dues and that pursuant to a scheme of arrangement sanctioned by this Court vide order dated 14th June, 1999 in C.A. No. 319 of 1999 employees in the Textile Division of the appellant company were transferred to the employment of M/s. Kesoram Textile Mills Ltd.

8. We are not convinced that the well reasoned award passed in favour of the respondent/workman requires to be interfered with.

9. It is settled law that the writ Court shall not sit in appeal over an award passed by the Industrial Tribunal unless the same is perverse or contrary to law. We find that the award is a well reasoned one where the evidence of the parties, including the documentary evidence, has been discussed at length. What weighed with the Industrial Tribunal is that the respondent/employee had promptly reported the incident of coercion in procuring his resignation letter to the police authorities and had also contemporaneously objected to the same before his employer. Subsequent withdrawal of provident fund dues by the respondent employee has rightly been discounted by the tribunal in view of the overwhelming evidence as to suspicious circumstances in which the purported resignation was procured. The tribunal has also rightly drawn an adverse inference against the appellant company for non-examination of Pradip Sarkar as a witness in the

face of the allegation that he was instrumental in forcing the employee to write the resignation letter, as deposed by the latter. The scheme of arrangement, as argued, also has no bearing in view of the admission of O.P.W. 1 (S.R. Chamaria) that the respondent was an employee of the appellant company and no evidence was led to establish that he was an employee of the Textile Division of the appellant company whose service stood transferred to M/s. Kesoram Textile Mills Ltd.

10. We are, therefore, of the opinion that no interference in the impugned order is called for. The instant appeal and all connected applications are accordingly dismissed.