

CASE NO.:
Appeal (civil) 1396 of 2006

PETITIONER:
GYANENDRA SAHAY

RESPONDENT:
M/S. TATA IRON & STEEL CO. LTD.

DATE OF JUDGMENT: 13/07/2006

BENCH:
Dr.AR.LAKSHMANAN & LOKESHWAR SINGH PANTA

JUDGMENT:
J U D G M E N T

Dr.AR.LAKSHMANAN, J.

This appeal is directed against the order passed by the Division Bench of the High Court of Jharkhand at Ranchi allowing the appeal filed by the respondent herein.

1) The appellant was appointed as Management Trainee with the respondent-company. He was confirmed as Executive Assistant in the Office of Controller of Budgets at Jamshedpur. He was transferred to in the Mines Unit in August, 1989. On 23.02.1994, he was posted to perform his duties in the Engineering Cell. 2) According to the respondent herein, the appellant submitted an application on 01.04.1995 for his premature/voluntary retirement with a request to consider his case for payment of ex-gratia amount, in view of his long association with the company. The application for voluntary retirement was accepted on the same day i.e. 1st April, 1995. According to the appellant, he was compelled to retire prematurely and was compelled to submit application for compulsory retirement due to undue and excessive pressure, exercised by officers of the company. The appellant made request to re-consider his case sympathetically and reinstate him in service by revoking the retirement given to him and transfer him back to Jamshedpur in any suitable Department and also pay his increment for January, 1994 and January, 1995. The prayer was made to the management to consider his case sympathetically, specially because his entire settlement has been adjusted against his building loan with the result that after working for 15 years in the respondent-company, he does not know how to manage my family.

3) The respondent by letter dt.22.06.1995 rejected the request of the appellant stating that since the appellant has resigned from service of the company from 1st April, 1995 and that his resignation has been accepted, it will not be possible to consider his case for employment in the company. The appellant raised an industrial dispute before the Labour Court under the Bihar Shops & Establishments Act contending that his resignation was not voluntary and he was forced to submit the application for premature/voluntary retirement. The preliminary issue as to the maintainability of the matter before the Labour Court was also raised which was overruled by the Labour Court. Finally, the Labour Court held that the appellant is entitled to relief of reinstatement in service with full back wages and other consequential benefits.

4) Aggrieved by the award passed by the Labour Court, the respondent preferred Civil Writ Petition No.3802 of 1999 before the High Court of Judicature at Patna, Ranchi Bench. Learned Single Judge of the said court after considering rival contentions was of the opinion that since the resignation was accepted on the same day and the complainant-appellant was relieved on the same day, the same was quite unnatural and that by itself created a doubt in the mind of the court. The learned Single Judge also held that the appellant was coerced to submit his resignation letter and the same was accepted on the same day and, therefore, it was not voluntary and it will amount of illegal termination of services of the appellant.

5) On being aggrieved, the respondent preferred an appeal before the Division Bench of the High Court. The Division Bench by its judgment

dt.24.01.2005 allowed the appeal filed by the respondent herein. Aggrieved by the said judgment of the Division Bench of the High Court, the appellant has come before this Court by filing the Special Leave Petition No.9744/2005. Leave was granted by this Court on 24.02.2006.

6) The appellant-in-person has argued his case. He invited our attention to various letters and correspondence that were exchanged between the appellant and the respondent-company and also drew our attention to the order passed by the Labour Court, the learned Single Judge and the Division Bench. He also invited our attention to the evidence led before the Labour Court. Since the appellant is a party-in-person, we allowed him to argue this case at length and gave him a full and patient hearing. The appellant reiterated the grounds raised in the Civil Appeal at the time of hearing and submitted that he was summoned to Jamshedpur and compelled to submit the letter of premature/voluntary retirement.

7) We have also heard Mr.Raju Ramachandran, learned senior counsel for the respondent. He also explained the circumstances under which the letter of resignation was accepted. According to Mr.Raju Ramachandran, after the resignation was accepted, the management has paid his entire retiral benefits to the appellant herein. Mr. Ramachandran also submitted that even though the appellant has submitted his letter of premature/voluntary retirement on 01.04.1995, he represented to the management after 48 days requesting them to re-consider his request for premature/voluntary retirement and reinstate him in service.

8) The only issue which arises for re-consideration is whether the appellant was compelled to write and sign the application for premature/voluntary retirement due to undue and excessive pressure, exercised by officers of the respondent-company.

9) We have carefully read the judgment passed by the learned Judges of the Division Bench of the High Court. The learned Judges while rejecting the contention of the appellant herein have given cogent and convincing reasons in arriving at the conclusion in the appeal. This apart, the appellant in his own handwriting submitted the letter dt.01.04.1995 for premature/voluntary retirement which was accepted on the same day. When the letter was written in the handwriting of the appellant and presented the same in-person to the authority concerned, it cannot be said that the service of the respondent was dispensed with by the respondent-employer unauthorisedly. 10) We have carefully perused the letter dt.01.04.1995 which reads thus :-

"G.M.(O.M.& Q)
N.I.M.

Dt.1.4.95

Dear Sir,

I have been working with the Company for the last 15 years. Now I wish to retire prematurely from the Company with all retiring benefits. I would also request the company to consider paying me some Ex-gratia amount considering my long association with the Company.

Thanking you,

Yours faithfully

Sd/-Gyanendra Sahay
(GYANENDRA SAHAY)

P.NO.110017

Dy.Manager (Admn.)"

11) The above request was accepted by the General Manager on the same date i.e.1st April, 1995 and the following letter was handed over to the respondent, accepting his premature/voluntary retirement. The said letter reads as follows :-

"THE TATA IRON AND STEEL COMPANY LIMITED
JAMSHEDPUR 831001 INDIA

A0/6458/95

Mr.Gyanendra Sahay
P.No.110017

Dy. Manager (Admn.)
Mines Division,
Noamundi

Dear Mr. Sahay,

Re:-Your letter dt.1.4.95

Kindly refer to your letter of 1.4.95. After due consideration, and also keeping in view your long association, the Company has agreed, as a special case, to retire you as requested by you with immediate effect.

You will be entitled to all the retiral benefits of the Company which would have otherwise been available to you at your superannuation. In addition, your request for ex-gratia is being considered separately.

Please get in touch with the General Manager (Finance & Accounts) for your full and final settlement.

We wish you and your family the very best in life.

Yours sincerely,

Sd/- (illegible)
(M. Fasihuddin)
General Manager (O M & Q)"

12) It is seen from the said letter that the request for premature/voluntary retirement was accepted by the management on 01.04.1995 with immediate effect. The letter also clearly states that the appellant will be entitled to all the retiral benefits of the Company which would have otherwise been available to him at his superannuation. The management has also stated that the appellant's request for ex-gratia is being considered separately. By the said letter, the appellant was directed to get in touch with the General Manager (Finance & Accounts) for his full and final settlement.

13) In this context, it is useful to refer page 96 of the appeal paperbook which was marked as Annexure P-5 which is a letter dt.12.4.1995 addressed to the appellant. It is stated in the letter that the management has decided to extend the following facilities to the appellant on his premature retirement :-

"1. Retiring Gratuity as per rules for the actual service rendered by you.

2 Provident Fund, including Co.'s contribution in full.

3 Superannuation Fund, as per rules.

4 Payment of cash, equivalent to the privilege and furlough leave including proportionate leave due to you.

5 Free medical facilities as applicable to the retiring officers in the respective divisions.

In addition to the above, you will be eligible for an ex-grade payment, details of which will be available with DM (Accounts), Mines Division. You may kindly contact him on any working day during office hours."

14) We have also perused the Memo of Appeal and other representation made by the appellant. The appellant has made a vague allegation that he was forced to take retirement. Neither he has made it specific nor had given the name of any officer who compelled him to write the letter dt.1st April, 1995 or exercised undue and excessive pressure to sign the letter of premature/voluntary retirement. Though the Labour Court has come to the conclusion that the appellant was compelled to submit the letter of resignation, the same is not supported by any acceptable evidence. It is settled law that suspicion and doubt cannot take the place of

evidence. No finding of fact can be given on mere doubt and suspicion or on the basis of baseless allegations. The appellant having written letter of voluntary retirement and after having accepted the retiral benefits without any protest cannot now turn round and say that he was compelled to submit his premature/voluntary retirement. The appeal has absolutely no merits and we, therefore, have no hesitation to dismiss the same and to affirm the order passed by the learned Judges of the Division Bench of the High Court. No order as to costs.

15) It is submitted by Mr.Raju Ramachandran, learned senior counsel for the respondent that all the retiral benefits including ex-gratia has been paid and settled to the appellant. On the other hand, the appellant-in-person states that all the retiral benefits as per the Terms of Acceptance have not been paid fully to him. If there is any amount due, the appellant is at liberty to approach the respondent-management by making a representation claiming the said amount. If such a claim is made, the management is directed to consider the same and pass appropriate orders in accordance with law.