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CWP-17499-2018 1

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

201 **CWP-17499-2018**
Date of Decision:23.04.2024

M/S CREATIVE EDGE MEN'S WEAR PVT. LTD.

.... Petitioner

Versus

THE PESIDING OFFICER INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AND ANR

....Respondent

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Suverna Mutneja, Advocate for the petitioner.

Mr. Ram Pal Verma, Advocate for respondent No.2.

SANJAY VASHISTH, J.(Oral)

1. Petitioner-M/s Creative Edge Men's Wear Pvt. Ltd (Being Management) has filed present writ petition challenging the award dated 09.10.2015(Annexure P-11), passed by learned Labour Court, Panipat, whereby reference No.243 of 2010 under Section 10 (1) (c) of the Industrial Disputes Act (for short 'the Act of 1947'), has been answered in favour of the worklady.

Learned Tribunal has held that termination of the services of the worklady by Management is in violation of Section 25-F of the Act of 1947 and the same is illegal and arbitrary. Accordingly, respondent No.2-Smt. Saytawanti (worklady) has been ordered to be



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reinstated in service with continuity of service alongwith 50 % back wages.

2. Through the demand notice and claim statement, worklady pleaded that she was appointed as Operator on 30.07.2007 with the Management on a monthly salary of Rs.4,100/-. Her work and conduct was quiet satisfactory. On 01.08.2009, she was not allowed to enter the main gate by the Security Guard and was rather told that she has been retrenched from the services by the Management. It was also told to her that some other person has been engaged at her place. On 18.08.2009, a complaint was filed by the worklady regarding her illegal retrenchment, but no heed was paid to it. Since, the termination is without any notice, pay in lieu of notice, or retrenchment compensation, same was pleaded to be illegal and in violation of Section 25-F of the Act of 1947. It was further pleaded that she worked for more than 240 days with the Management in the preceding one year of her termination.

3. On the other hand, pleaded case of the Management before Labour Court was that the worklady was appointed in Company on 07.04.2008 as a worker and was allotted employee Code No.224. She voluntarily resigned from the service and thereon, after receiving full and final dues of Rs.6,191/- on 30.07.2009 from the Management, she had left the office as no further action was required at the end of the Management.



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4. On the basis of the pleadings of the parties, after framing of the issues, learned Tribunal examined the record and reached to the conclusion that Ex.M6 is the basic document of resignation but, same has not been proved in accordance with law by the Management. In regard to the evidence led by the Management i.e resignation letter, its acceptance and pay voucher, learned Tribunal commented as under:

“11. Ex.M-6 is the resignation letter, relied upon by the respondent in support of its case that she voluntarily resigned from the services. The perusal of this letter shows that the entire letter except the signatures are in one hand little dark, whereas, the signatures of workman are in a lighter ink. The workman may have agreed to her signatures on the resignation but keeping in view the distinction of ink used, there is every force in the arguments advanced by learned Authorized Representative for the work-lady that the signatures of work-lady used to be taken on blank papers.

12. No witness was examined by the respondent, who could state that the letter was written by the work-lady herself. MW-1, in his cross-examination stated that the writing on documents Ex.M1 to Ex.M5 are the same and is written by work-lady. He has further stated that he did not recognize the writing on Ex.M6 i.e. the resignation letter and stated that he could not tell about the writing on Ex.M6 is the work-lady or not. He further stated that no witness had signed on resignation letter Ex. M6. He has stated that according to his opinion this letter could have been written by the work-lady or by any other person was written. In this way, he is not a witness to the writing of the letter by the work-lady.

13. On being cross-examined by Ld. AR for the respondent that the work-lady clearly denied the resignation letter which proves that the resignation was against her free will and it was not a true resignation. Therefore, the stand of the respondent that the work-lady tendered herself her resignation letter but this plea is not proved and the stand of the respondent is baseless. The plea of the respondent is not acceptable in the eyes of law.



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Moreover, it is also clear that the resignation letter was written by some other person whereas the work-lady only accepted her signature not the language of the resignation letter and it is settled law that who gives her resignation letter that it should be in her writing but the language of this resignation letter is totally different and not written by the work-lady which shows that it himself have been written on a blank signed paper of the work-lady. The version of the work-lady that her signature was taken on blank paper. Besides this, is also clear that the resignation letter has been accepted by the management not after 30 days but on the same day on 30.7.09 which clearly prove the bad intention of the management and management already set their mind to terminate the services of the work- lady.

14. In the present case before hand, the moot point before the court is to see as to whether workman herself submitted resignation or as to whether she was illegally terminated from the service by the respondent. In view of the facts and circumstances already discussed above, clearly goes to establish that it was a case of termination of services of the workman by the respondent. ”

5. Even during the course of hearing, learned counsel for the petitioner made an attempt to convince the Court that the action of the Management is based upon the resignation only. To substantiate his argument, learned counsel for the Management referred the appointment letter dated 01.04.2008(Annexure P-1) appended with the petition wherein, it has been mentioned that worklady will be paid monthly salary of Rs.3,770/- including all the allowances and a joining report dated 01.04.2008 (Annexure P-2).

While referring to the resignation letter dated 30.07.2009 (Annexure P-5), learned counsel for the Management submits that due to her own reasons of not being able to continue with the job, worklady submitted her resignation and asked for release of her legal



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dues. One Dinesh Dhingra is shown to be a witness to said resignation. On same day i.e. on 30.07.2009, worklady is informed of acceptance of the resignation by the Director of the Company. On 30.07.2009 itself, a voucher (Annexure P-6) is filled in English of making payment of a cash amount of Rs.6,191/- to the worklady and in response to the receiving of the said amount, her thumb impression is also shown to be affixed on the said voucher.

6. But on a careful perusal of the vernacular of the resignation letter, it transpires that the same has been written by a person having knowledge of Hindi language and a good handwriting, but the worklady-Satyawanti has affixed her thumb impression on the said letter. Even, the letter dated 30.07.2009 (Ex.M7) accepting the resignation also bears the thumb impression of the worklady.

7. Learned counsel for the worklady relied upon the statement of MW-1 Shri Karan Singh, who at the time of giving statement was working with the Management for the last 15 years. On reading out the vernacular of the said statement (appended with the present petition) (Annexure P-10), it is found that the Management witness admitted that he has no knowledge as to whose handwriting is there on the resignation letter; and that same has been signed by the worklady in his presence; and that document of acceptance of resignation (Ex. M7) had been immediately signed and handed over to her. However, there is a specific admission that document of acceptance of resignation does not bear the signature of anyone else.



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Said witness also admitted that as per Ex.MW1/1, only Anita Devi, Satyawanti, Santosh, Pushpa and Babli were given the salary in cash and rest others were paid by cheque. However, he denied that the signatures were obtained on the blank papers.

8. On examination of the pleadings raised in the writ petition, reasons assigned in the impugned award and the arguments addressed by the parties before this Court, conduct of the petitioner-Company(Management) does not inspire confidence because for the proving of the resignation letter and its acceptance, no witness has been examined. Worklady seems to be absolutely illiterate. From no stretch of imagination, it can be assumed that she was having perfect knowledge of any language i.e. Hindi or English. Thus, there is no question of her knowing the contents of the resignation letter, its acceptance and columns filled in the voucher at the instance of the Management.

9. Pleaded case of the worklady throughout the proceedings is that no resignation letter was ever submitted by her. Plea taken by the Management that the worklady submitted her resignation on 30.07.2009 does not appear to be genuine because after illegal retrenchment on 01.08.2009, demand notice alongwith five copies of it was addressed to the Management (Annexure P-7) without any delay, wherein date of appointment has been pleaded in specific as 30.07.2007 alongwith salary of Rs.4,100/- and back wages have also been demanded from 01.08.2009.



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10. Moreover, the documents appended by the Management with the present writ petition as well as led in evidence have not been proved by the Management by producing the required witnesses. Once, a plea of resignation is taken by the Management, it requires to be proved strictly. Thus, being not satisfied with the plea taken in defence by the Management, there is no reason for this Court to doubt the view taken by the learned Labour Court and interfere with its findings. Therefore, this Court maintains that the termination of the services of the worklady is in violation of Section 25-F of the Act of 1947, and hence illegal.

11. However, learned counsel for the Management has further submitted that the reinstatement of the worklady with continuity in service would not be possible because the company itself had closed down much earlier. In this regard, Labour Court also has noticed in paragraph No. 15, the stand of the Management that manufacturing process of the factory at Sonapat has stopped w.e.f April 2010, but in the absence of any documentary evidence, said plea was not accepted. The position of the statement in the absence of any supported document is similar before this Court also. Therefore, the finding recorded by Learned Labour Court in paragraph no. 18 that the management has given a raw deal to the worklady also seems to be a perfect observation.

12. Accordingly, the complete award alongwith the relief clause is maintained by this Court. However, considering the conduct



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of the Management and the findings already recorded, this Court deems it appropriate to give alternate option to the Management to pay a lump sum amount of compensation of Rs.3,00,000/- (Rupees three lacs) to the worklady towards all her claims for which she has been held entitled through the impugned award dated 09.10.2015 (Annexure P-11).

However, it is made clear that in case, Management is not in a position to take back worklady in service for any reason and opts to pay one time lump sum amount of compensation as already observed i.e. amount of Rs.3,00,000/- (Rupees three lacs), the said amount shall be paid to the worklady within a period of three months from today i.e. on or before 24.07.2024. It is further clarified that in case, the said awarded amount is not paid within the stipulated time, interest @ 6% interest would be applicable from 24.07.2024.

With the aforementioned observations, the present writ petition is hereby **dismissed**.

April 23, 2024
rashmi

[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no