Reserved on: 08.01.2026
Pronounced on: 29.01.2026

APHC010275452002

[3506]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION NO: 11562 of 2002

M/s Sanofi India Limited, and Others ...Petitioner(s)
Vs.
M R Chandrasekhara Prasad and Others ...Respondent(s)

****

Advocate for Petitioner: SUDHAKARA RAO ALURI

Advocate for Respondent: A K JAYAPRAKASH RAO

CORAM : SRI JUSTICE CHALLA GUNARANJAN

DATE : 29th January 2026

ORDER:

The writ petition is filed under Article 226 of Constitution of India seeking following relief:

> "to issue an order direction or writ particularly one in the nature of writ of CERTIORARI after calling for the records quash the order passed in A.P.S.A. No.2 OF 2002, Dated 30.04.2002 on the file of the Appellate Authority under A.P. Shops and Establishments Act, 1988 and Deputy Commissioner of Labour, Eluru, including the orders of the First Appellate Authority and Assistant Commissioner of Labour, Circle II, Guntur in A.P.S.E. No.1 of 2000, dated 4.4.2001 and grant no relief to the first respondent and pass such further order or orders in the interest of justice."

2. (a) The 1st respondent was appointed as Medical Representative in the writ petitioner company on 20.05.1985 and got posted at Srikakulam. Later, he got transferred to Tenali and from there, he was again transferred to Bhimavaram, West Godavari District. It is stated that 1st respondent tendered resignation on 30.01.1996 and the same has been communicated to National Sales Manager, who was competent officer with a request to relieve him immediately besides settling the ex-gratia amount. The said resignation was stated to have been accepted immediately and the same was accordingly communicated to 1st respondent by letter dated 31.01.1996 and therefore, he got relieved from the services of 1st petitioner Company with immediate effect on 31.01.1996.

(b) Nearly about 12 days thereafter 1st respondent sent fax letter dated 12.02.1996 addressed to Vice President, Marketing, of the petitioner company requesting cancellation of his resignation and to reinstate him into service. Petitioner stated to have replied by letter dated 16.02.1996 through its Manager, Human Resources, inter alia stating that inasmuch as resignation has already been accepted and ex-gratia paid, his request for

cancellation of resignation, merely being an afterthought, was not acceptable and accordingly stood rejected.

(c) Thereafter, 1st respondent stated to have taken up the matter with Assistant Commissioner of Labour making certain false allegations against the company that he was made to resign on account of force and coercion and therefore, escalated the issue. Though the Assistant Commissioner of Labour, Circle – II, Guntur, held conciliation meetings, eventually suggested 1st respondent by letter dated 08.08.1996 to approach the competent Labour Court for redressal of his grievance. Nearly after lapse of seven months, petitioner stated to have received notice from 3rd respondent to respond to the application that was preferred by 1st respondent under the provisions of A.P. Shops and Establishments Act, 1988, which also accompanied an application seeking to condone the delay in preferring such an application. After contest, the application seeking for condonation of delay came to be dismissed by order dated 29.01.1998.

(d) As against the same, 1st respondent preferred appeal before Deputy Commissioner of Labour, Eluru, who in turn remanded the matter back to the 3rd respondent for fresh

consideration and to pass appropriate orders after recording the necessary evidence. The 3rd respondent by order dated 04.10.2001 ultimately passed final orders deciding all issues in favour of 1st respondent and he was directed to be reinstated into service with back wages, continuity of service and other attendant benefits.

(e) Aggrieved by the same, petitioner preferred second appeal vide A.P.S.A.No.2 of 2002 before the 2nd respondent which eventually came to be dismissed by order dated 30.04.2002 confirming the order of 2nd respondent. Aggrieved by the orders in first appeal as confirmed by second appellate authority, the present writ petition is preferred.

3. This Court has initially stayed the operation of both impugned proceedings by interim order dated 28.06.2002. The 1st respondent then filed counter along with application for vacating the above interim orders. After considering the respective pleas made by petitioner and as well as 1st respondent, this Court disposed of the vacate petition by order dated 07.10.2002 in W.V.M.P. No.2387 of 2002 in W.P.M.P.No.

14250 of 2002, by modifying the interim order to the following effect:

> "There shall be an interim stay of reinstatement of the petitioner herein subject to condition that the petitioner herein – the employee, shall be paid the full wages last drawn by him including the arrears thereof with effect from the date of the order of the 5th respondent dt.4.10.2001 up-to-date and he shall be continued to be paid the full wages last drawn by him during the pendency of the writ petition. On failure of the 1st respondent in paying the arrears of wages within a period of four weeks from today, the stay granted on 28.06.2002 as modified today, shall stand rescinded automatically without further reference to this court and the petitioner herein shall be at liberty to execute the order of the 5th respondent appellate authority as confirmed by the order of the 4th respondents second appellate authority. Future wages as directed, shall be paid by the 1st respondent on or before 10th of every month."

4. Heard Sri Sudhakara Rao Aluri, learned counsel for petitioner and Sri A.K.Jayaprakash Rao, learned counsel for 1st respondent.

5. (a) Learned counsel for petitioner contends that the impugned order of 3rd respondent as confirmed by the

3rd respondent suffers from serious error of law besides the findings recorded therein being perverse call for interference of this Court in exercise of Certiorari Jurisdiction. He contended that the findings rendered by both the authorities below, in particular, holding that the resignation made by 1st respondent under Ex.A13, dated 30.01.1996 was on account of coercion, which was not so, was not based on appreciation of evidence on record, but on mere surmises, inasmuch as it was an act of voluntary resignation and the same was duly accepted by the National Sales Manager, competent authority, on the next date under Ex.A6, dated 31.01.1996, as per the request of the 1st respondent. Non-consideration of aforesaid vital evidence clearly tantamounted to perversity.

(b) He further contended that the lower authorities have clearly committed error in not appreciating the fact that there was no evidence to show that the 1st respondent had addressed letters under Exs.A7 and A8 to the Managing Director of Petitioner and Assistant Commissioner of Labour – II on 31.01.1996 and mere certificate of posting would not amount to valid communication to believe the said version. He also contended that the institution of first appeal before 3rd respondent nearly after one year was

clearly beyond limitation and therefore, the claim ought not to have been entertained and rejected being barred by limitation, particularly in the context of the delay not being properly explained. In view of aforesaid contentions, learned counsel prayed to allow the writ petition and quash the orders impugned in the writ petition.

6. (a) Per contra, learned counsel for the 1st respondent tried to support the orders of both first appellate authority and as well as second appellate authority. He mainly contended that the scope of judicial review under Certiorari Jurisdiction is very much narrow and it is not expected for this Court to sit in as an appellate authority to reappreciate the evidence and upset the findings of fact recorded by the lower authorities. Only in cases where there is an apparent error of law on the face of record, then alone the Certiorari Jurisdiction can be legitimately exercised. Even adequacy or sufficiency of evidence let on a point and the inferences of fact to be drawn from the said findings were within the exclusive domain and jurisdiction of the lower authority and such points could not be agitated before the writ court. In that view of the matter, it is his contention that the findings of fact recorded by the 3rd respondent as confirmed by 2nd respondent in

regard to the forcible resignation of 1st respondent to be an act of coercion and further that in the absence of valid acceptance of resignation, the same constituting to be an illegal termination, cannot be found fault and roaring exercise of marshalling the evidence once again is clearly unwarranted.

(b) Insofar as the aspect of delay is concerned, it is his submission that the first appellate authority and as well as second appellate authority have in detail considered the reasons and cause demonstrably shown in instituting the claim and the justification and satisfaction arrived at therefore cannot be interfered with.

(c) In support of above submissions, he placed reliance on the following judgments:

(i) Full bench judgment of the Hon'ble Apex Court in **Syed Yakoob v. K.S.Radhakrishnan and others**[1]

(ii) Division Bench Judgment of this Court in **Vice Chancellor, Sri Padmavathi Mahila Viswavidyalayam, Tirupathi and other v. Prof.V.N.Das**[2]

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[1] (1964) AIR (SC) 477
[2] 2001 LLR 1047 = (2001) 4 ALD 806

7. Perused the record and considered the respective submissions made above.

8. Before embarking on deciding the *lis* in the present writ petition, it is required to first notice the scope of judicial review while exercising Certiorari Jurisdiction. While summing up the precedents on this aspect, the Hon'ble Apex Court in **Central Council for Research in Ayurvedic Sciences v. Bikartan Das**[3], held as under:

> **"49.** The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of the Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.

[3] (2023) 16 SCC 462

50. The second cardinal principle of exercise of extraordinary jurisdiction under Article 226 of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

56. From the aforesaid, it could be said in terms of a jurisdictional error that want of jurisdiction may arise from the nature of the subject-matter so that the inferior court or tribunal might not have the authority to enter on the inquiry. It may also arise from the absence of some

essential preliminary or jurisdictional fact. Where the jurisdiction of a body depends upon a preliminary finding of fact in a proceeding for a writ of certiorari, the court may determine, whether or not that finding of fact is correct. The reason is that by wrongly deciding such a fact, the court or tribunal cannot give itself jurisdiction.

58. So far as the errors of law are concerned, a writ of certiorari could be issued if an error of law is apparent on the face of the record. To attract the writ of certiorari, a mere error of law is not sufficient. It must be one which is manifest or patent on the face of the record. Mere formal or technical errors, even of law, are not sufficient, so as to attract a writ of certiorari. As reminded by this Court time and again, this concept is indefinite and cannot be defined precisely or exhaustively and so it has to be determined judiciously on the facts of each case. The concept, according to this Court in *K.M. Shanmugam* v. *S.R.V.S. (P) Ltd.* [*K.M. Shanmugam* v. *S.R.V.S. (P) Ltd.*, 1963 SCC OnLine SC 25 : AIR 1963 SC 1626] , “is comprised of many imponderables … it is not capable of precise definition, as no objective criterion could be laid down, the apparent nature of the error, to a large extent, being dependent upon the subjective element.” A general test to apply, however, is that no error could be said to be apparent on the face of the record if it is not “self-evident” or “manifest”. If it requires an examination or argument to establish it, if it has to be established by a long-drawn out

process of reasoning, or lengthy or complicated arguments, on points where there may considerably be two opinions, then such an error would cease to be an error of law. (See : *Satyanarayan Laxminarayan Hegde* v. *Millikarjun Bhavanappa Tirumale* [*Satyanarayan Laxminarayan Hegde* v. *Millikarjun Bhavanappa Tirumale*, 1959 SCC OnLine SC 10 : AIR 1960 SC 137] .)

63. Thus, from the various decisions referred to above, we have no hesitation in reaching to the conclusion that a writ of certiorari is a high prerogative writ and should not be issued on mere asking. For the issue of a writ of certiorari, the party concerned has to make out a definite case for the same and is not a matter of course. To put it pithily, certiorari shall issue to correct errors of jurisdiction, that is to say, absence, excess or failure to exercise and also when in the exercise of undoubted jurisdiction, there has been illegality. It shall also issue to correct an error in the decision or determination itself, if it is an error manifest on the face of the proceedings. By its exercise, only a patent error can be corrected but not also a wrong decision. It should be well remembered at the cost of repetition that certiorari is not appellate but only supervisory."

9. (a) Coming to the facts of present case, it is not in dispute that the 1st respondent initially was engaged as Medical Representative on 20.05.1985 and he was posted at various places in the course of employment. Ultimately, while he was

working at Bhimavaram, West Godavari District, he stated to have submitted letter of resignation (Ex.A13) on 30.01.1996 requesting the National Sales Manager to accept the same forthwith.

(b) Immediately on the next day, by letter dated 31.01.1996 (Ex.A6), 1st respondent stated to have been relieved from service. 1st respondent eventually claimed that he was forced to submit resignation and therefore, he had immediately addressed letters dated 31.01.1996 to the Managing Director of Petitioner (Ex.A7) and Assistant Commissioner of Labour - II (Ex.A8) and the same were sent through certificate of posting under Exs.A9 and A10. He also stated to have issued fax message under Ex.A12 and letter to the Union under Ex.A14. The 1st respondent had set up a case that he was made to forcibly resign and the said act clearly amounted to an act of coercion, therefore, he immediately addressed letters on the very next date requesting to withdraw the said resignation letter and to reinstate him back into service.

(c) He also pleaded that in the absence of a proper acceptance to the resignation so tendered, inasmuch as Ex.A6 merely was relieving letter, the resignation cannot be said to be legal and at any rate, forcible termination clearly amounted to

illegal termination. Be that as it may, the 1st respondent admittedly approached the 3rd respondent nearly after one year of the resignation. Therefore, an application was moved to condone the delay beyond period of 60 days as envisaged under Section 48 of A.P. Shops and Establishments Act, 1988.

10. In contrast, the petitioner defended the case before 3rd respondent by pleading that the resignation was voluntary and that there was any amount of truth to say that 1st respondent was coerced to make such resignation, the National Sales Manager was well within his powers to accept and relieve the 1st respondent, therefore, in no manner it can be said that the termination amounted to forcible act leading to illegal termination. Even on the aspect of delay also the matter was contested by pleading that the delay was not properly explained and even otherwise the 1st respondent was merely communicating with Assistant Commissioner of Labour, Guntur, who at the earliest point of time suggested to approach the Labour Court for redressal of his grievance, rather than taking necessary steps has belatedly approached the 3rd respondent, therefore, there was no justification for condoning the delay.

11. The 3rd respondent after considering the evidence on record both oral and documentary has framed three issues. One with respect to delay. The other regarding preliminary objection and jurisdiction and the third on merits of the matter. Insofar as delay was concerned, the 3rd respondent having noticed the relevant provisions which prescribed the period of limitation and also the power to condone delay in instituting the appeal beyond the specified period, on analyzing the reasons set out in the application for condonation of such delay, eventually came to conclusion that sufficient cause was shown to condone the same. Besides it has also shown empathy and fraud in favour of the employee having regard to the nature of the enquiry that was sought to be conducted and ultimately delay came to be condoned. Even the second appellate authority also concurred with the reasoning given by the first appellate authority.

12. Coming to the aspect of merits, the primary authority has in detail dealt with the evidence on record and ultimately has rendered specific findings to come to conclusion that the resignation was on account of force and coercion. The relevant findings of 3rd respondent read as under:

"As seen from the records, the point to be decided by the authority is that whether the resignation is voluntary or involuntary. Immediately after resignation, the applicant approached B. Ananda Kumar who is the Secretary of A.P.M.S.R. Union on 31.01.19961 and taken his advice. The applicant was advised to approach the ACL for redressal. Immediately he send a representation to ACL, on 31.01.1996 which is received by the office of the Assistant Commissioner of Labour on 05.02.1996 that is Ex-A8. The representation was sent to ACL on 31.01.1996, the evidence is Ex-A9. The applicant sent letters to M/s.Rouseel (India) Ltd, Bombay regarding the cancellation of resignation obtained by duress & coercion on 30.01.1996 which is Ex-A7. The Ex-A7 was sent through certificate of posting and the token of certificate of posting is Ex-A10. Ex-A1 is the letter from Sukdheep S. Virk. of patiala. In Ex-A1 he stated as RCB convenor that he will be sending some badges to the RCB members and requested them to make a point and wear them on their shirts during the total proceedings. Ex-A2 & A3 are the letters from RCB convernor. As seen from the records it is evident that the applicant was working under the control of GVR Prasad Area Manager of Vijayawada. While he was working at Tenali, the applicant faced some allegation that he was involved in a pharmaceutical business at Tenali. In this matter the area manager has got an opinion that the applicant is having direct involvement of the pharmaceutical business which belongs to his brother-in-law. There are some misunderstandings in this aspect as said by the applicant in his application. The entire

story was carried on, to the General Manager S.L.Wadhwa. The G.M. also believed the version of the Area Manager and called for an explanation with strong words i.e., Ex-A4. In Ex-A4 we can clearly found that "please recall our discussions in August, 1995 which was followed by your transfer to Bhimavaram from Tenali headquarters. We advised you in our discussions that your involvement in your family business at Tenali required us to shift you away from Tenali if we had to give you the last opportunity to continue to contribute to our sales efforts. Unfortunately despite the transfer to Bhimavaram you have not been able to wean yourself away from your family business and you are quite often seen in your family business premises at Tenali. We have observed that if you notice that somebody belonging to the company has seen you present in Tenali you make leave application to officially justify your presence in Tenali. The nearest point in your territory to Tenali is about 150 kms away and it is not expected that you shuttle between Tenali and your territory on a day to day basis and still report working with doctors and chemists in your territory. You must be matured enough to understand that the management has various ways and means to ascertain work of a medical representative in their respective territory. We do not believe in deputing detective agencies behind our employees to get details of their whereabouts or gathering proof of working in the field. However with this very evidence that the medical representative is not working in the field and that the medical representative does not change his habits even after counseling, we do not mind resorting to such

practices also. We have evidence provided not only by our business associates but also by your own colleagues who are surprised that the management is so lenient that they do not take terminal action against the medical representative who works for his family business and claims allowances and salaries from the company. If you are interested in the job this has to stop forthwith. In any case you are required to submit written explanation as to why disciplinary action should not be initiated against you. It is expected that you convince us that you did work in the field on 9th September when you were seen in the afternoon on the same day in your business premises at Tenali. On the same day we do not appreciate your calling on five doctors without initiating any excuse from your side about your inability to call on 10 doctors. If your explanation is not received by us within 15 days we will have no alternative but to assume that you have no explanation to offer and your services will be terminated forthwith in which case you will be free to pursue your own business."

As seen from EX-A4 which was issued by the general manager, he came to a conclusion that the applicant was residing at Tenali and doing his family business for which he was severely warned by him. In the letter he stated that they do not believe in deputing detective agencies behind their employees to get details of the employees whereabouts. The applicant does not change his habit even after counseling. They do not mind resorting to such practice. They have evidence provided not only by their business associates, but

also the colleagues of the applicant, who are surprised that the management is so lenient that the management do not take terminal action against the medical representative who works for his family business and claims allowances and salaries from the company. If the applicant interested in the job this has to stop forthwith. In any case applicant is required to submit a written explanation as why disciplinary action should not be initiated against applicant. If the explanation of the applicant is not received by them within 15 days, they will have no alternative but to assume that the applicant has no explanation to offer and the services of the applicant will be terminated forthwith, in which case he will be free to pursue his own business. So it is clear that the General Manager has came to a conclusion that the applicant was involved in family business for which the applicant has given an opportunity to explain his case. If the explanation is not satisfactory disciplinary action has to be initiated against the applicant. The General Manager as R.W.-2 in his evidence stated that the reply of the applicant is not satisfactory. So the alternative remained was only an enquiry which takes a lot of time. R.W-1, R.W.-2 & R.W.-3 clearly stated in their evidence that they have no recorded evidences to show the family business of the applicant. The respondents are well aware that if the enquiry is conducted they won't establish the involvement of the family business of the applicant. Then the only alternative left over to quit the applicant is the forceful resignation, in which they have succeeded. In the evidence R.W.-3 has deposed that he knows the applicant as his colleague, he

knows about the product launch that took place on 30-1-1996 at Hotel Ilapuram, Vijayawada. He also participated. The performance of the applicant is not generally liked by the management. There are allegations against the petitioner about his involvement in the similar line business in Tenali. So it is evident that the Management is vexed with the attitude of the applicant who-involved in the family business on the similar line. The respondents after completion of the meeting has called the applicant to their room and has given a threat by showing two letters i.e. 1) Relieving letter 2) Termination letter and forced the applicant to resign. In the unavoidable circumstances the applicant has given the resignation letter to respondents on 30-1-1996. It is a forced resignation because the RW-1 and RW-2 have given evidence that the applicant is greedy of money apart from his performance. The applicant is having the habit of en-cashing the opportunity. The applicant is used to exploit anything for want of money. The applicant told several times with RW-1 that he is going to resign if some exgratia is granted. The respondent accepted that the applicant is a clever man, and used to exploit anything to earn money. The resignation letter EX-A13 says that he would like to tender his resignation with immediate effect. He requested the respondent to consider some exgratia amount in addition to his normal dues. So the amount of exgratia to be sanctioned shall be left to the respondents. But no_clever person who is in the habit of en-cashing any opportunity shall not leave the choice to the respondents. So it is clear that as a wise man and exploitist the applicant shall not do this mistake.

Secondly there was a launch meeting on 30-1-1996 at Vijayawada for which the applicant attended. If the applicant has got any intention to resign there is no necessity to the applicant to participate in the entire proceedings of the meeting. EX-A1 is the letter from RCB convenor. In the letter it is stated that he was sending some black badges to the RCB member to wear on their shirts during the total proceedings. It is unwanted to the applicant to wear the black badges, if actually he is going to submit his resignation, and to know the business strategies of the new product and to participate in the RCB meeting. But the applicant has participated in all the items which clearly shows that he is interested in his job. Further as per the evidences of RW-1 & RW-2 the applicant is very clever to exploit the opportunity for want of money. As per the version of the respondents the salary of the applicant is an additional amount and free amount in addition to applicant's profit in his family business if any. Such additional amount, as an intelligent the applicant cannot forego by tendering his resignation. He will avail all the opportunities until the removal by the management. On the other hand it is clear that the management came with the reliving letter of the resignation on 30-1-1996.

Here the RW2 the General Manager in his evidence has stated that the applicant handed over the resignation letter just when they are entering in his room. The RW-2 informed to the applicant that he will convey his decision through R.S.M. Mr.Siva Ram. EX-A6, is the relieving letter, which the General

Manager gave to R.S.M. Mr.Siva Ram to hand it over to the applicant on the next day, because it is the last working day of the month i.e. EX-A6. With this it is clear that the relieving letter was handed over on 30th Itself to RSM Mr.Siva Ram for further handing over the same to the applicant on the next day i.e. last working day of the month i.e. 31-1-1996. As seen from EX-A6 it is dated 31-1-1996. It was handed over by RW-2 to RSM Mr.Siva Ram for further handing over it to the applicant. There was a signature of the applicant on EX-A6. But as per the record when the EX-A6 was handed to the applicant by RSM Mr. Siva Ram, why they are silent?. The respondents failed to examine the RSM Mr.Siva Ram who is the key person who served the EX-A6 to the applicant. The applicant started trails immediately after 30-1-1996. As there is no evidence of date of serving EX-A6 it is the responsibility of the management to permit the applicant to withdraw his resignation. There are no material about the meeting of Mr.Siva Ram with the applicant to serve EX-A6. Without personal serving, no body can obtain the signature of the applicant on EX-A6. So it is clear that Ex-A6 was with the respondents on 30-1-1996 and served it on the applicant on the same day with pressure."

13. Even the second appellate authority with regard to the aspect of delay held as under:

"With regard to the contention of the Appellant/ Management about the condonation of delay of nearly one

year by the Lower Authority, it is noticed from the case file that the Lower Authority after due consideration of the facts of the case, condoned the delay. Moreover, no technicalities need be observed in quasi-judicial cases. Therefore, no interference is required as far as the issue of condonation of delay is concerned."

14. Insofar as merits of the matter, the second appellate authority concurred with the findings and conclusions arrived at by first appellate authority in following manner:

"On perusal of case file of the Lower Authority, it is also noticed that there were some disputes in between the Appellant/Management and the Respondent/workman about involvement of the Respondent/workman with his family pharmaceutical business. Apparently, this was the reason for transferring the Respondent/workman from Tenali to Bhimavaram but no documentary evidence was with the Appellant/Management about such involvement or frequent staying of the Respondent/workman at Tenali. As per A.W.2 - General Manager [Sales], after tendering resignation, they informed the Respondent/workman that their decision will be informed through Regional Sales Manager Mr.Srivaram and the said Mr.Sivaram informed him [General Manager] that the letter dt.31.1.1996 was served on the Respondent/workman against acknowledgement. There was no mention from the Appellant/Management "where and when" the acceptance

letter dt.31.01.1996 was served on the Respondent/workman through the said Mr.Sivaram.

On perusal of Ex.A.6 - Resignation acceptance letter dt.31.1.1996 [Xerox copy] - it is noticed that there were some light impressions underneath the signature of the Respondent/workman. This collaborates the contention of the Appellant/workman that on 30.1.1996 itself, the Appellant/Management after obtaining resignation letter from him forcibly served him with the relieving letter dt.31.1.1996 and he was prevented to put date below his signature. Further, to get signature of the Respondent/workman on Ex.A.6, personal serving is the only way. As rightly held by the Lower Authority, there were no materials showing the meeting of the Mr.Sivaram with the Respondent/workman to serve Ex.A.6. I, therefore, agree with the conclusion of the Lower Authority that the acceptance letter dt.31.1.1996 - Ex.A.6 was served on the Respondent/workman on 30.1.1996 itself."

15. This Court having gone through both oral and documentary evidence that was available before the first appellate authority and also the findings and reasons recorded by both first and second appellate authorities, is of the opinion that the findings of fact arrived at really do not suffer from any perversity. There was enough material evidence before both the authorities who considered and appreciated the same in coming to conclusion

that the resignation was a forcible act and not voluntary in nature. The resignation stated to have been tendered on 30.01.1996 and immediately next day itself, the 1st respondent addressed letters dated 31.01.1996 to the Managing Director of Petitioner (Ex.A7) and also Assistant Commissioner of Labour – II (Ex.A8) intimating that the resignation was not voluntary and request was made to reinstate him.

16. Both these letters were sent under certificate of posting of same day marked as Exs.A9 and A10. Further the oral evidence also supports aforesaid version. This evidence in a way supports the case of 1st respondent in saying that the resignation was not voluntary act. Though the 1st respondent tried to contend that the resignation was voluntary and the request of resignation came to be accepted on the next day, as could be seen from the evidence of the management, in particular R.W.2, who was the General Manager, the resignation letter was handed over during the meeting of employees at ilapuram hotel, categorically stated that the decision on the resignation letter would be communicated through Regional Sales Manager on the next date and further that on the very same day, R.W.2 had handed over relieving letter (Ex.A6) to Regional Sales Manager in order to communicate the

same to the 1st respondent on next day as it was last working day of the month. Whether at all there was acceptance to the resignation of 1st respondent and that the same was properly communicated, clearly there is a deep gap and the evidence of management in no manner establishes the link. The crucial person i.e., Regional Sales Manager, who according to the management, handed over the relieving letter to the 1st respondent was not at all examined and at any rate the relieving letter in no manner can be construed to be an acceptance of resignation by proper officer.

17. The 1st respondent has brought on record enough material to demonstrate that he had raised flag immediately on the very next day of the date of resignation and also made a request to withdraw his resignation. In that view of the matter, the first appellate authority has rendered categorical finding that both the resignation letter and as well as relieving letter were got signed on the very same day, which was purely in voluntary act of first respondent and rather at the pressure of the management. As the opinion was so expressed by first appellate authority as confirmed by second appellate authority being one of the possible view, this Court under the guise of judicial review cannot sit in

appeal, however, such finding of facts and even if it is possible to take a different view, such exercise would be clearly unwarranted aiming to upset the findings and view already expressed.

18. Therefore, the findings of fact, reasons arrived at culminated into final decision by both authorities below do not suffer from any error in law or from perversity calling for interference.

19. Aforesaid view is fortified inasmuch as the petitioner except for contending that the findings of fact arrived at by the first appellate authority as confirmed in appeal really did not appreciate the material evidence on record in proper perspective and that it is not their case that it was a case of absolutely of no evidence, it would not fall within the parameters of judicial review for issuance of Writ of Certiorari. Certiorari shall be issued only to correct errors of jurisdiction besides errors of law, which must be manifest or patent on the face of the record. Present case clearly lacks to demonstrate any of aforesaid exceptions calling for judicial intervention.

20. Accordingly, this writ petition stands dismissed. No costs.

As a sequel, miscellaneous petitions pending in this case, if any, shall stand closed.

CHALLA GUNARANJAN, J

ss