

Industrial Tribunal
Decision Number 3006
13th June 2024
Chairman: Mr Joseph Delia

Case Number: 4204/JD

Employment Issue

Between

TCB Services Ltd
Vs
Yogeesha Yogheesha

Subject Matter: alleged breach of the employment contract in line with Art. 36(12) of Chapter 452

TCB Services Ltd registered a petition in the Superior Court on 23rd August 2023 whereby it requested the Tribunal to order Mr Yogeesha Yogheesha to pay the Company a) Euro 2,505.48 on the grounds of breach of contract by abandoning the service of his employer, and b) the Court and legal expenses.

The Respondent did not submit any reply to the petition.

Mr Yogheesha was employed with the Company on a 24-month definite contract commencing on 10th January 2023.

On the 27th June 2023 the Respondent resigned from his employment with the Company, the last day of such employment being the 4th July 2023.

Throughout the period during which the sittings were held, according to Identity Malta the Respondent was still residing in Malta. This notwithstanding, Mr Yogheesha nor any representative of his ever attended any of the four Tribunal sittings and this without giving notice or explanation of his absence.

The Company left no stone unturned to advise Mr Yogheesha that he was violating his contract of employment and that therefore he was liable for damages. It first emailed him, explaining the legal implications and giving him the opportunity to discuss the situation. The Company did not receive a reply to that email. This was followed by the Company's lawyer writing by registered mail to the Respondent explaining Mr Yogheesha's legal liabilities and appealing to him to settle the matter amicably. This registered letter was collected by the Respondent but, yet again, the Company did not hear from him.

Section 36 (12) of the Employment and Industrial Relations Act considers Mr Yogheesha's resignation as abandonment of service before the time definitely specified by the contract of service and therefore subject to the Respondent's paying to the Company a sum equal to one-half of the full wages to which he would have become entitled if he had continued in the service for the remainder of the time so specifically agreed upon.

The Company did not receive from Mr Yogheesha any reason, let alone a good and sufficient cause, for his resignation. So Subsection 14 of Section 13 of the aforementioned Act, which contemplates summary abandonment of service of the employer for a good and sufficient cause, does not apply.

So the Tribunal considered that Mr Yogheesha was doing his utmost to avoid facing his contractual responsibilities.

Since the Respondent, an Indian national, was employed subject to Identity Malta permit renewal approval after the first twelve months, for purposes of calculating the period in respect of which one-half of the full wages to which Mr Yogheesha would have become entitled if he had continued in the service for the remainder of the time so specifically agreed upon between the Respondent and the Petitioner was from 5th July 2023 until end December 2023.

Decision

The Tribunal is satisfied that the Company has solidly substantiated its case. It finds Mr Yogheesha guilty of having abandoned the service of TBS Ltd before the time definitely specified by the contract of service.

Therefore, the Tribunal hereby orders Mr Yogheesha to pay TCB Services Ltd a sum equivalent to three months' full wages less one day, applying the definition of "full wages" as defined by Section 36 (12).

Additionally, Mr Yogheesha is hereby ordered to pay the Court and legal expenses incurred by TCB Services Ltd; for this purpose the aforementioned legal expenses are fixed at Euro 93.17.

Thus, this Employment Issue is hereby declared closed.

As required by Article 78 (1) of Chapter 452 of the laws of Malta it is hereby stated and registered that this issue couldn't be decided upon earlier because of the load of other Employment Issues being considered by the Tribunal.

Joseph Delia

Chairman

True Copy

Graziella Borg

F/Secretary