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Employer cannot revoke offer of employment in the absence of any barrier in appointment

In the recent case of *Matthew Johnson Dara vs. Hindustan Urvarak and Rasayan Ltd.*¹, a single judge bench of the Delhi High Court (“**Delhi HC**”) upheld an employee’s rights and opined that once an employee has been offered a position by the employer, their offer of appointment cannot be revoked in the absence of any barrier with respect to the employee’s joining.

Brief facts

The petitioner, Matthew Johnson Dara (“**Employee**”) was engaged as a General Manager (Finance) with Brahmaputra Valley Fertilizer Corporation Limited (“**BVFCL**”) since April 28, 2023. Hindustan Urvarak and Rasayan Limited (“**HURL**”) had issued an advertisement for the post of Vice President (Finance) on January 15, 2024. The Employee applied and got selected for the position, and received an appointment letter from HURL on June 7, 2024, requiring him to join HURL by July 5, 2024. Pursuant to this offer, the Employee resigned from service with BVFCL on the same day, requesting to be relieved within 15 days, as he was still on probation and was not required to serve any notice prior to being relieved.

After the Employee submitted his resignation to BVFCL, instead of processing it promptly, BVFCL retrospectively confirmed his service and required him to serve a one-month notice period starting from June 7, 2024. The Employee requested either to serve the notice period starting June 7, 2024, or to adjust the remaining notice period against his available casual leave, with any balance recoverable from his full and final settlement. However, BVFCL did not respond to this request. Subsequently, the Employee joined HURL on July 8, 2024, providing an undertaking to submit his relieving letter from BVFCL within 30 (thirty) days of joining. On July 12, 2024, BVFCL issued a show-cause notice to the Employee, questioning why disciplinary action should not be initiated against him for joining HURL without fulfilling his notice period obligations.

Aggrieved by the show-cause notice, the Employee filed a writ petition before the Gauhati High Court (“**Gauhati HC**”), which stayed any action based on the show-cause notice and directed that pendency of proceedings should not prevent BVFCL from processing the Employee’s resignation. Meanwhile, HURL, by an order dated August 19, 2024, unilaterally revoked the Employee’s joining and initiated fresh recruitment processes to fill the vacant position. Aggrieved by HURL’s decision, the Employee filed another writ petition before the Gauhati HC, which disposed of the petition, noting that since BVFCL had ultimately accepted the Employee’s resignation and relieved him upon completing the requisite formalities, there should be no impediment to the Employee resuming the role of Vice President (Finance) at HURL.

¹ W.P. (C) 11818/2024 (decided on October 16, 2024)

When HURL still did not reinstate the Employee, a fresh petition was filed before the Delhi HC challenging HURL's decision to revoke the Employee's appointment.

Issue

The Delhi HC was presented with the issue as to whether an employee's appointment can be revoked when there is no impediment in their joining and all issues with respect to their joining has been resolved?

Observations and analysis

Delhi HC, while deciding upon the matter laid down its observations as follows:

Reiterating the position taken by Gauhati HC, Delhi HC stated that the sole reason for revoking the Employee's joining was that he did not submit his relieving letter. However, since BVFCL did in fact issue a relieving letter, there was no reason for HURL to impede the Employee's joining. Delhi HC while hearing arguments also observed that the Employee had successfully cleared the selection process of HURL and had in fact joined the organisation also for a short while. Further, owing to the stay order issued by the Gauhati HC, the position was still lying vacant. Basis the above, Delhi HC ordered for the Employee to be reinstated in HURL with all consequential benefits.

Conclusion

The Delhi HC's ruling in the judgment reflects the necessity of weighing in proportionality between irregularities and consequences in employer-employee relationships. Courts in India have consistently underscored this principle of proportionality, ensuring that actions of employers align with fairness and reasonableness, particularly in cases where termination has far-reaching consequences on the livelihood of employees. In this case, the Delhi HC observed that the sole ground for revocation, i.e., absence of a relieving letter from the petitioner's previous employer, was not proportionate to the severity of consequence, especially when the irregularity was subsequently resolved. This decision sets an important precedent for fostering fairness and proportionality in employer-employee relationships paving way for employers to adopt more balanced measures in hiring and firing decisions.

Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimize associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

JSA also has significant experience in assisting employers to ensure that they provide focused and proactive counselling to comply with the obligations placed on employees under the prevention of sexual harassment regime in India. We advise and assist clients in cases involving sexual harassment at the workplace, intra-office consensual relationships, including drafting of prevention of sexual harassment (POSH) policies, participating in POSH proceedings, conducting training for employees as well as Internal Complaints Committee members, and acting as external members of POSH Committees.

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