

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2015

CORAM

THE HONOURABLE MR. JUSTICE **N. KIRUBAKARAN**

Contempt Petition No. 651 of 2015

&

Sub Application No. 106 of 2015

Chemoil Advanced Management Services Pvt. Ltd.,
rep. by Vijay Nair
- (Director CAMS & Group Financial
Controller - Chemoil Group Companies)
3rd Floor, Robert V Chandra Tower,
149, Velachery - Tambaram Road,
Pallikaranai,
Chennai - 600 100. ..Petitioner

Vs.

1. V. Raghunathan
2. Mr.S. Ponnuswamy
Appellate Authority,
Under Shops and Establishment Act,
Teynampet,
Chennai - 600 006. ..Respondents

Prayer: Petition under Sections 11 & 12 of the Contempt
of Courts Act, 70/71 to punish the respondents for having
committed contempt of Court by disobeying the order dated
03.09.2013 passed in M.P.No. 1 of 2013 in W.P. No. 24562 of
2013.

For Petitioner :: Mr.S.R. Rajagopal

For Respondents :: Mr. Franco Louis for R1
Mrs.P. Kavitha
Govt. Advocate for R2

O R D E R

This contempt petition has been filed on the ground that the order of interim stay granted by this Court in M.P. No. 1 of 2013 in W.P. No. 24562 of 2013 dated 03.09.2013 has been violated.

2. The 1st respondent was employed under the petitioner as a Business Development Manager. As the petitioner Company completely closed down its business, the 1st respondent could not be accommodated anywhere and could not be re-employed. Therefore, the 1st respondent was terminated from service vide letter of termination dated 29.03.2010. As against the same, the 1st respondent filed an appeal under the Tamil Nadu Shops & Establishment Acts, before the Appellate Authority/Deputy Commissioner of Labour (Minimum Wages), TN Shops and Establishment Act, which was numbered as TSE/II/2010. After a detailed enquiry, the appeal was allowed by order dated 29.05.2013 and the 1st respondent sought permission to report for duty pursuant to the order of the Appellate Authority. While so, the petitioner filed W.P. No. 24562 of 2013 challenging the order of the Appellate Authority dated 29.05.2013 and pending disposal of the writ petition, the petitioner sought interim stay of the order passed by the Appellate Authority in the above said appeal. This Court, on <https://hcservices.ecourts.gov.in/hcservices/> considering the rival submissions, passed the following

order on 03.09.2013:

"It is evident from para 22 of the claim petition filed by the second respondent that he resigned from the petitioner's company by letter dated 01.03.2010 and the same was accepted by 12.03.2010 directing the second respondent to collect his dues.

When that is the position, the second respondent cannot be here to say that he is still in service. The facts narrated by the second respondent himself would state that second respondent resigned from the company. In view of that, there shall be an order of interim stay as prayed for.

Considering the relationship of the second respondent with petitioner, the matter requires to be settled. In view of that, matter is referred to Tamil Nadu Mediation and Conciliation Centre."

3. Thereafter, the petitioner, by letter dated 28.08.2013 issued a second termination. Aggrieved by the same, the 1st respondent preferred an appeal in TNSE No.II/5/2014 before the 2nd respondent herein under the Tamil Nadu Shops and Establishments Act, 1947 and the 2nd respondent, by order dated 28.11.2014 allowed the appeal setting aside the order of termination dated 28.08.2013 issued by the petitioner and directed the petitioner to reinstate the 1st respondent with continuity of service and

all attendant benefits. Contending that in spite of interim stay granted by this Court, in favour of the petitioner, the 1st respondent approached the Appellate Authority, violating the order of stay granted by this Court, this contempt petition has been filed.

4. Taking into consideration, the relationship between the petitioner and the 1st respondent, this Court suggested settlement. With the co-operation of both parties, the matter is settled and the petitioner agreed to pay a sum of Rs.32 lakhs towards backwages, for 5 years, for the period from April, 2010 to July, 2015, payable to the 1st respondent.

5. When the matter is called today, Mr.S.R. Rajagopal, learned counsel appearing for the petitioner produced 3 Demand Drafts, each dated 15.07.2015, drawn on Canara Bank, in favour of the 1st respondent, bearing numbers "169950" for a sum of Rs.16 lakhs, "169952" for a sum of Rs.16 lakhs and "169951" for a sum of Rs. 2 lakhs. As already stated, the sum of Rs.32 lakhs represent backwages for 5 years payable to the 1st respondent for the period from April, 2010 and July, 2015 and the sum of Rs.2 lakhs is towards Gratuity payable to the 1st respondent.

6. Further, the petitioner also undertakes to give a "Service Certificate" to the 1st respondent for the period during which he was under the employment of the petitioner.

7. Since, as per the settlement arrived at, the

petitioner has paid the amount and the 1st respondent has received the amount, the contempt petition is closed. The proceedings before the 2nd respondent, in view of the settlement, has become infructuous and hence, dismissed. Connected Sub-Application is closed.

Nv

SD/-

DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER (O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

SS/co/29/07/2015

One CC to MR.S.R.Rajagopal, Advocate, SR.9119

To

Appellate Authority,
Under Shops and Establishment Act,
Teynampet,
Chennai - 600 006.

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