

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.37422 of 2015

Rajagobal Ayanarappane

... Petitioner

Vs.

1. The Director General of Shipping,
9th Floor, Beta Building,
I-Think Techno Campus,
Kanjurmarg (East)
Mumbai - 400 042.

2. Regional Office of
Director General of Shipping,
Marine Mercantile Department (MMD)
Government Shipping Office,
Anchorgate Building, 2nd Floor,
P.B.No.5004, Rajaji Salai,
Chennai 600 001.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the second respondent to conduct an enquiry on the Claim Petition of the petitioner dated 10.10.2014 for wage arrears of the petitioner and to pass orders within a time frame limit that may be fixed by this Court.

For Petitioner : Mr.P.G.Thiyagu

For Respondents : Mr.V.T.Balaji

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ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to conduct an enquiry on the Claim Petition dated 10.10.2014 filed by the petitioner seeking wage arrears and pass orders within a time frame fixed by this Court.

2. It is the case of the petitioner that he is a seafarer and his duties and rights pertaining to the period on board is governed by the specific statute of Merchant Shipping Act. He had been employed as Captain in a merchant ship called RAMEY TIDE through a manning agency viz., Holly Offshore Shipping Services, which is the sub agent of Atlas Offshore and Glare Shipping Pvt. Ltd. All these entities are having valid license to procure the seafarers. The said Holly Offshore undertook the manning contract in ties with the Atlas Offshore and Glare Shipping and the petitioner signed in with their concern to sail in the said ship viz., RAMEY TIDE MUMBAI, O.N.3054 BHP 4300, GRT 851 NRT 255 on 30.08.2013 VIZAG and signed off on 21.10.2013 VISAG.

3. It is the further case of the petitioner that as per the contract, his salary was fixed at Rs.10,000/- per day and the same for 30.08.2013 and 31.08.2013 was paid by Holly Offshore through a cheque for an amount of Rs.20,000/-, which was honoured. Thereafter, his salary from the month of September 2013 till 21.10.2013 was not paid. Since he insisted for payment of his salary, the Director of the said company issued a cheque, which was dishonoured. Again the Director of the company issued a cheque for Rs.1,70,000/- towards part payment, which was also dishonoured. Though the Holly Offshore by its mail dated 12.03.2014 assured to settle the pending payment, they failed to do so, which compelled the petitioner to issue a legal notice dated 12.08.2014 to the company. Despite the same, no payment was made. Hence, the petitioner filed a claim Petition for recovery of wage arrears on 10.10.2014 before the first respondent, who on receipt of the same, sent a reply dated 21.10.2014 stating that the petitioner's representation was forwarded to the Shipping Master, Mumbai for appropriate action. Thereafter, the claim petition is pending without any further action. Therefore, the petitioner has filed the present petition for the above stated relief.

4. Heard Mr.P.G.Thiyagu, learned counsel for the petitioner and Mr.V.T.Balaji, learned counsel for the respondents.

5. Considering the facts and circumstances of the case, without going into the merits of the claim made by the petitioner, this Court directs the second respondent to conduct enquiry on the petitioner's claim petition dated 10.10.2014 for recovery of wage arrears, by affording an opportunity of personal hearing to the petitioner and pass appropriate orders. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner

and it is for the second respondent to pass appropriate orders purely on merits and in accordance with law. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Shipping,
9th Floor, Beta Building,
I-Think Techno Campus,
Kanjurmarg (East)
Mumbai - 400 042.
2. The Regional Office of
Director General of Shipping,
Marine Mercantile Department (MMD)
Government Shipping Office,
Anchorgate Building, 2nd Floor,
P.B.No.5004, Rajaji Salai,
Chennai 600 001.

+1cc to Mr.P.G.Thiyagu, Advocate, S.R.No.8138
+1cc to Mr.V.T.Balaji, Advocate, S.R.No.8097

W.P.No.37422 of 2015

GJ(CO)
CA(16/02/2016)

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