

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION No. 352 OF 2009

Forward Seamens Union of India ... Petitioner
Vs.
Oil & Natural Gas Corporation Ltd. & Ors. ... Respondents

**CIVIL APPLICATION No. 30 OF 2010
IN
CONTEMPT PETITION No. 352 OF 2009**

S. Vasudeva ... Applicant
Vs.
Forward Seamens Union of India ... Respondent

**CIVIL APPLICATION No. 48 OF 2010
IN
CONTEMPT PETITION No. 352 OF 2009**

R.S. Sharma ... Applicant
Vs.
Forward Seamens Union of India ... Respondent

Ms. Jane Cox, Advocate for the petitioner.
Mr. Rahul Narichania, Senior Advocate a/w. Siddharth Chhabria and
Aziz Khan i/b. Divya Shah Associates, Advocate for respondent nos.
1 to 3.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 30th July, 2018.

P.C.:

The Contempt Petition is filed for the breach of award dated
17th July, 2006 passed by the One Person Tribunal, which is
established under Merchant Shipping Act, 1958. So also there is
contempt of the orders passed by this Court on 18th December, 2006

in Writ Petition No. 7659 of 2006 and order dated 9th April, 2009 passed in Civil Application No. 828 of 2007 in Writ Petition No. 7659 of 2006. The Tribunal has passed the award giving some relief to the present petitioner.

2. The learned counsel for the petitioner, while arguing the matter, has submitted that only since 3 years, the relief as directed by One Person Tribunal is granted to the petitioner, however, the petitioner though are entitled to get the arrears, as directed by the Tribunal, they have not received. Thus, there is breach of the award of the One Person Tribunal and so also the orders of this Court. She further submitted that the respondents did not ask for any interim stay in the Writ Petition wherein they have challenged the impugned award. Thus, they have committed breach of the orders passed by the Tribunal.

3. The learned senior counsel for the respondents, while opposing this Contempt Petition, has submitted that the Petition is time barred, as the award under challenge was passed on 17th July, 2006 and the Contempt Petition is to be filed within one year from the date of award, however, it was filed on 4th September, 2009. He further

submitted that any claim in respect of wages, if payable, can be recovered before the Magistrate Court as per the procedure laid down under Section 138 and further sections of the Merchant Shipping Act.

4. Heard both the parties. On perusal of the orders passed by this Court on 18th December, 2006 and 9th April, 2009, I am of the view that there is no breach of the orders of the High Court. The award of the Tribunal was passed on 17th July, 2006 and the petitioner, if wanted to have relief under the Contempt of Courts Act, then they should have Contempt Petition within one year from the date of award, i.e., on or before 17th July, 2007, however, the Contempt Petition was filed on 4th September, 2009 and hence it is time barred. Moreover, under sections 138 to 144, the rights of seamen in respect of wages are mentioned in the Merchant Shipping Act, 1958 and Sections 145 to 148 state about the mode of recovering wages. Section 145 of Merchant Shipping Act, 1958 lays down the summary proceedings for wages which is to be filed before the Magistrate Court. In view of this, wherever alternate remedy is available and if it is not availed of, then this Court will stay its hands under the Contempt of Court Act. Hence, Contempt Petition is

dismissed.

5. In view of dismissal of Contempt Petition, nothing survives in the Civil Applications, hence Civil Applications are also accordingly disposed of.

(MRIDULA BHATKAR, J.)