

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 24TH DAY OF OCTOBER 2018

THE HON'BLE MR. JUSTICE C.SARAVANAN

O.P. No.253 of 2018

In the matter of the Arbitration
and Conciliation Act, 1996 and
as amended by the Arbitration
and Conciliation (Amendment)
Act, 2015

and
In the matter of Agreement
No.87/Dy.CE/GC/VM @ TBM/2008
dated 25.01.2008.

M.Rajkumar,
Plot No.S-7, M.R.Complex,
Paper Mill Road, Taj Nagar,
SPB Colony, Erode-638 010.

.... Applicant

-Versus-

1. The General Manager,
Southern Railway,
Park Town, Chennai-600 003.
2. The Deputy Chief Engineer,
Gauge Conversion/VM,
Southern Railway, Tambaram,
Chennai-600 045.
3. Shri.K.A.Manoharan,
Chief Signal & Telecommunication
Engineer/Construction/North,
S & T Construction Wing, II Floor,
No.75, Poonamallee High Road,
Egmore, Chennai-600 008.
4. Shri.Gautam Dutta,
Chief Workshop Manager,
Locomotive Workshops,
Southern Railway, Ayanavaram,
Chennai-600 023.

5. Shri.G.Kalyanaraman,
Senior Divisional Finance Manager,
Tiruchirappalli Division,
Southern Railway, Tiruchirappalli. ... Respondents

Original petition praying that this Hon'ble Court be pleased to:-

a) terminate the arbitration tribunal and appoint an independent Arbitrator to arbitrate all the disputes and claims arising out of the Agreement No.87/Dy.CE/GC/VM@TBM/2008 dated 25.01.2008.

b) direct the respondents to pay the cost of the petition.

This Original Petition coming on this day before this Court for hearing the court made the following order:-

The above application is filed to terminate the arbitration Tribunal and to appoint an independent Arbitrator to arbitrate all the disputes and claims arising out of the Agreement No.87/Dy.CE/GC/VM @ TBM/2008 dated 25.01.2008.

2.Heard, M/s.K.Aparna Devi, learned counsel for the petitioner and Mr.P.T.Ramkumar, learned standing counsel for the respondents.

3.It is the case of the petitioner that the arbitrators appointed by the respondents have either retired or transferred. As of now there is no arbitral Tribunal. The

employees of the respondents were appointed as arbitrators to resolve the disputes and attempts have been made to re-constitute the arbitral Tribunal with serving employees of the respondents.

4. The proceedings commenced on 21.12.2009 with invocation of the arbitration clause of the petitioner. It is noticed that the respondents also decided to comply with the amendments to the Arbitration and Conciliation Act, 2015 by arbitration amendment in 2015 while reconstituting the arbitration. However, attempts have been made only to appoint the serving employees of the respondents.

5. Under these circumstances, the case was adjourned to find out the parties can arrive consensus for appointment of sole arbitrator by the Court.

6. The learned counsel for the respondents mentioned that the Railway being a statutory body having internal restoration for payment of the fees and for arbitration and therefore cannot afford arbitrators other than their panel arbitrators.

7. Considering the fact that the law has been amended as

per Section 12(5) r/w VII Schedule to the Arbitration and Conciliation Act, 1996, it would be a paradox to permit the parties to re-constitute the arbitral Tribunal with the Railway employees again merely because the arbitration proceedings had commenced between the amendment to the Act.

8. I am therefore of the view that the ends of justice will be met if a sole arbitrator is appointed to resolve the disputes between the parties.

9. Under these circumstances, Hon'ble Mr. Justice S. Rajeswaran, (Retd.) High Court, Madras residing at No. AA-67, II Street, Near Rountana Nalli Silk House, Anna Nagar, Chennai-40 is appointed as a sole arbitrator to resolve the dispute between the parties.

10. It is made clear that the petitioner will bear the entire expenses for the arbitration and in case the petitioner succeeds will be entitled to recover the cost from the respondents.

11. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

12. Accordingly, this original petition is allowed.

Sd/-C.S.N.J

24/10/2018

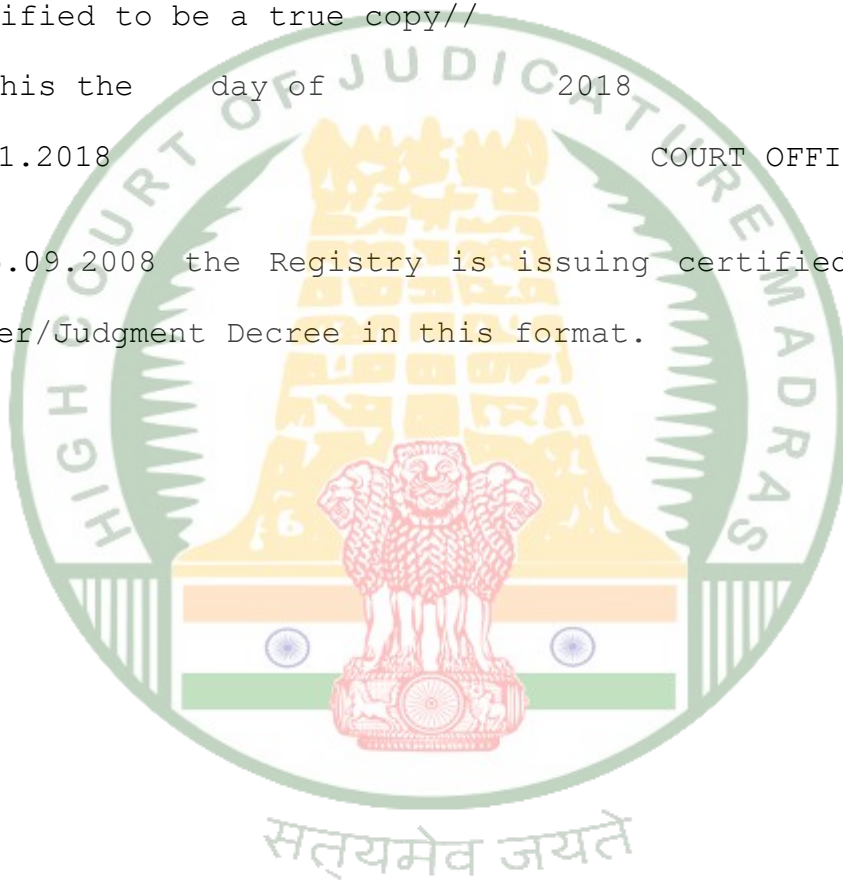
//Certified to be a true copy//

Dated this the day of 2018

JJ 16.11.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of
the Order/Judgment Decree in this format.



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