

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.05.2019

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No. 5318 of 2018
& WMP. No.6542 of 2018
&WMP.NO.1100 of 2019

The Management of
Fumitec Minerals Private Limited
Regd. Office 3B, 3rd Floor,
Park Centre Apartment,
No.15, Venkatanarayana Road,
T.Nagar, Chennai-600017

Factory at

Fumitec Minerals Private Limited
Plot no.118 & 119, EPIP,
SIPCOT Industrial Complex,
Gummidipoondi-601 201
Thiruvallur District

...Petitioner

...Vs..

1.The Presiding Officer
III Additional Labour Court,
Chennai-600 104

2.C.Ramalingam

...Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the 1st respondent/III Additional Labour Court, Chennai and quash the impugned Award dated 12.10.2017 made in I.D.No.313 of 2012.

For Petitioner : Mr.C.Mohan for M/s.King &
Partridge
For Respondents : Mr.R.Rajaram for R2

O R D E R

Challenging the Award passed by the 1st respondent/III Additional Labour Court, Chennai, the petitioner/Management has come forward with the present Writ Petition.

2. When this Writ Petition is taken up for consideration, both the learned counsel appearing for the petitioner/Management and the learned counsel appearing for the workman/second respondent would submit that the matter has been settled between the parties by entering into a Settlement Deed dated 30.04.2019 under Section 18(1) & 2 (p) of the Industrial Disputes Act, 1947. The said Memorandum of Settlement is extracted below:

MEMORANDUM OF SETTLEMENT ENTERED UNDER SECTION 18(1) AND 2(p) OF INDUSTRIAL DISPUTES ACT 1947 READ WITH RULE 25(1) OF THE TAMIL NADU INDUSTRIAL DISPUTES RULES 1958.

I. NAME OF THE PARTIES:

Management : Fumitec Minerals
Private Limited
Regd. Office 3B, 3rd
Floor,
Park Centre Apartment,
No.15, Venkatanarayana
Road, T.Nagar,
Chennai -
600007

Workman : C.Ramalingam
S/o.R.Chitambaram
United Labour Federation,
No.149, C.J.Complex,
Thambu Chetty Street,
Chennai-600 001

Representing the Employer: S.Namachivayam
Manager-Sourcing

Representing the Workman: C.Ramalingam
Machine Operator

II.SHORT RECITAL OF THE CASE:

WHEREAS Fumitec Minerals Private Limited is a Small Manufacturing Unit and having its production line at Plot Nos.118 & 119, EPIP, SIPCOT Industrial Complex, Gummidipoondi-601 201, Thiruvallur District. The workman C.Ramalingam was

employed as Machine Operator in one of the unit.

WHEREAS the workman C.Ramalingam absented himself from reporting for duty without any intimation, with effect from 01.12.2011. Hence the Management concluded that the workman had voluntarily abandoned his service and in terms of the appointment order, a letter dated 06.12.2012 was sent to the workman directing him to pay one month pay in lieu of notice period for having abandoned the service voluntarily.

WHEREAS the workman C.Ramalingam raised a dispute before the Assistant Commissioner of Labour (Conciliation), Chennai-600 108 alleging that he was terminated from the service and claimed to reinstate in service. The said dispute was ended up in I.D.No.313 of 2012 on the file of the III Additional Labour Court, Chennai-600 104.

WHEREAS the III Additional Labour Court, Chennai by an award dated 12.10.2017 directed the Management to reinstate the workman C.Ramalingam with continuity of service, full backwages and all other attendant benefits from 01.12.2011.

WHEREAS the Management aggrieved by the award dated 12.10.2017 passed by the Labour Court preferred a Writ Petition in W.P.No.5318 of 2018 and obtained an order of stay on 09.03.2018 vide W.M.P.No.6542 of 2018.

WHEREAS the workman C.Ramalingam filed a petition in W.M.P.No.11000 of 2019 in W.P.No.5318 for a direction for payment of last drawn wages under Section 17(B) of the Industrial Disputes Act, 1947.

WHEREAS pending the above writ petition in W.P.No.5318 of 2018, the workman C.Ramalingam through his counsel approached the Management and expressed his willingness to settle the matter with him by payment of a lumpsum amount as full and final settlement.

WHEREAS the management in order to give quietus to the entire issue, considered the demand of the workman concerned and decided to execute this settlement with the workman concerned to put to an end all the matters/issues between them. For

arriving at the settlement, in good faith both parties held talks/discussions on 22.04.2019 and 24.04.2019 and after negotiations, arrived at the settlement to amicably to close all matters between them including termination their employer and employee and relationship. The terms and conditions of the settlement as agreed between the parties are hereunder.

III. TERMS AND CONDITIONS:

1.The workman C.Ramalingam, Machine Operator has requested to treat the date of absent from service as deemed resignation and having accepted the same, the Management has agreed to pay the workman C.Ramalingam a total sum of Rs.8,00,000/- (Rupees Eight Lakhs only) by way of two cheques as detailed below:

- i) Cheque bearing No.000021 dated 29.04.2019 drawn on HDFC Bank, Prince Tower Complex, College Road, Nungambakkam Chennai-600 006 Rs.5,00,000.00
- ii) Cheque bearing No.000022 dated 29.04.2019 drawn on HDFC Bank, Prince Tower Complex, College Road, Nungambakkam Chennai-600 006 Rs.3,00,000.00

Total (i) + (ii) = Rs.8,00,000.00

2. The workman concerned agrees and acknowledge to receive the above sum of Rs.8,00,000/- (Rupees Eight lakhs only) as full and final settlement of all his claims with the management. The award of the Labour Court in I.D.No.313 of 2012 dated 12.10.2017 stands modified to the extent of this settlement namely payment of lumpsum amount set out hereinabove.

3. The workman hereby agrees that the payment of the above sum by the Management to him shall not act as a precedent nor shall it be construed as an admission on behalf of the Management as to the validity of any claims or liability.

4.The workman agrees that he shall not inform, divulge or disclose the terms of this settlement or circulate this settlement to any third party including those related or in contact with the Management. The Workman shall ensure full confidentiality of this settlement at all times.

5. The workman hereby acknowledge that he has no other claims against the Management including gratuity as he has not put in the requisite service and he shall not initiate any proceedings before any Court/Tribunal for any claim whatsoever in respect of his employment with the management including any claim for reemployment or on any issue pertaining to this settlement.

6. This settlement is executed by the Workman concerned without any duress, coercion or threat and out of his own will.

7. This settlement covers all payments due and payable by the company and receivable by the workman including leave encashment, arrears of salary and bonus. The workman has been informed and appraised of the calculations and has understood the same and hereby acknowledges that the amounts worked out above are correct calculations that was payable to him.

8. This settlement embodies the entire understanding and agreement of the parties concerning the resolution of all disputes, claims or potential claims between the parties, it fully supersedes any other oral or written understanding, agreements, representations and warranties between them relating thereon.

9. This settlement has been made in English language. The workman has been explained of the contents of this settlement in Tamil and he has understood the terms and conditions laid down hereinabove. This settlement has been read over to the workman in Tamil, understood and executed by him and the workman shall not raise an issue or claim against the company including on the contents and/or understanding of this settlement.

10. The workman has been explained of the contents of the settlement and his obligations. In the event any clause or covenant in this settlement is violated, the Management shall be entitled to initiate such an appropriate action under the Industrial Disputes Act including prosecution for violation of the terms of the settlement. The workman has been informed of this requirement and he has agreed to ensure his side of his obligations without default.

11. The Provident Fund accumulations of the workman was available with the PF Authorities. In the light of the resignation of the employee, its acceptance and executions of this settlement and cessations of employer - employee relationship,

the workman shall be entitled to submit necessary forms to the PF authorities as required under the Employees Provident Fund (Miscellaneous Provisions) Act, 1952 stating that he has resigned from the services of the company and shall withdraw such accumulations as he so wishes, subject to his fulfillment of the requirements of the PF Act. In the event any such form of the workman is received by the Management, the same shall be duly endorsed by the Management as required.

12. Both parties agreed to file the copy of the settlement before the Hon'ble High Court, Madras before which the Writ Petition in W.P.No.5318 of 2018 is pending and pray for the disposal of the Writ Petition in terms of the settlement during the hearing on 30.04.2019.

Dated at Chennai on this the 30th day of April 2019.

Sd/- C.Ramalingam (workman) Sd/- S.Namachivayam,
Manager-Sourcing
for Fumitec Minerals Pvt.Ltd.

3. Recording the said memorandum of settlement dated 30.04.2019 entered into by the petitioner/management and the second respondent/workman filed before this Court, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation officer

//True Copy//

Sub Assistant Registrar

ska/dn
To

1.The Presiding Officer
III Additional Labour Court,
Chennai-600104

+1cc to M/s.King & Partridge , Advocate SR.No. 43534
+1cc to Mr.R.Rajaram , Advocate SR.No. 43478

W.P.No. 5318 of 2018
& WMP. No.6542 of 2018

A.SK(22/05/2019)