

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.35936 to 35939 of 2016
and W.M.P.Nos.30916 to 30919 of 2016

W.P.No.35936 of 2016

The Management
Chola Sheraton
No.10, Cathedral Road,
Chennai-600 008.

.... Petitioner in all WPs

-vs-

1. The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai-600 001. ...1st Respondent in all WPs

2. Mr.V.K.Mohanasundaram (deceased)
3. Tmt.Helon Sundar
4. V.M.Yogesh Mairio Sundar

... Respondents in WP.35936/16

K.R.Nageswara Rao ... 2nd Respondent in WP.35937/16
N.Kalyanasundaram ... 2nd Respondent in WP.35938/16
Srinivasan ... 2nd Respondent in WP.35939/16

Prayer: Petition filed under Article 226 of the
Constitution of India, praying for the issuance of a Writ
of Certiorari to call for the records connected with
I.D.No.1207 of 1992 and quash the Award dated 04.11.2015
passed by the 1st Respondent, i.e., The Presiding Officer,
Principal Labour Court, Chennai.

For Petitioner : Mr.Sanjay Mohan, Senior Counsel
For M/s.S.Ramasubramaniam and Asso.

For R1 : Court
For R2 to R4 :Mr.V.Prakash,
Senior Counsel
For Mr.T.Ramkumar

W.P.No.35937 of 2016

The Management
Chola Sheraton
(Now known as My Fortune Chennai,
A Unit of ITC Limited)
No.10, Cathedral Road,
Chennai-600 008.

... Petitioner

-vs-

1. The Presiding Officer,
Additional Labour Court,
High Court Campus,
Chennai-600 001.
2. Mr.K.R.Nageswara Rao ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records connected with I.D.No.1702 of 1992 and quash the Award dated 04.11.2015 passed by the 1st Respondent, i.e., The Presiding Officer, Principal Labour Court, Chennai.

For Petitioner : Mr.Sanjay Mohan, Senior Counsel
For M/s.S.Ramasubramaniam and Asso.
For R1 : Court
For R2 : Mr.V.Prakash, Senior Counsel
For Mr.T.Ramkumar

W.P.No.35938 of 2016

The Management
Chola Sheraton
No.10, Cathedral Road,
Chennai-600 008.

... Petitioner

-vs-

1. The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai-600 001.
2. Mr.N.Kalyanasundaram ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records connected with I.D.No.1208 of 1992 and quash the Award dated 04.11.2015 passed by the 1st Respondent, i.e., The Presiding Officer, Principal Labour Court, Chennai.

For Petitioner : Mr.Sanjay Mohan, Senior Counsel
For M/s.S.Ramasubramaniam and Asso.

For R1 : Court

For R2 : Mr.V.Prakash, Senior Counsel
For Mr.T.Ramkumar

W.P.No.35939 of 2016

The Management
Chola Sheraton
(Now known as My Fortune Chennai,
A Unit of ITC Limited)
No.10, Cathedral Road,
Chennai-600 008.

... Petitioner

-vs-

1. The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai-600 001.

2. Mr.Srinivasan ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records connected with I.D.No.1989 of 1992 and quash the Award dated 04.11.2015 passed by the Presiding Officer, I Additional Labour Court, Chennai, wherein the Management was directed to reinstate the workman with continuity of service and to pay back wages and other benefits.

For Petitioner : Mr.Sanjay Mohan, Senior Counsel
For M/s.S.Ramasubramaniam and Asso.

For R1 : Court

For R2 : Mr.V.Prakash, Senior Counsel
For Mr.T.Ramkumar

C O M M O N O R D E R

These petitions have been filed, questioning the Award dated 04.11.2015 passed by the 1st Respondent herein.

2. These matters were taken up for hearing on 30.08.2019 and after hearing the respective parties, orders were reserved in these cases. Subsequently, a request was made by the learned counsel on either side that since the parties have arrived at an amicable settlement among themselves, all these petitions may be posted for filing a Compromise Memo so as to give quietus to the entire issue.

3. Accordingly, all these matters were directed to be posted today under the caption "For Clarification" at the instance of the learned counsel on either side through "Video Conference".

4. It is represented by Mr.Sanjay Mohan, learned Senior Counsel appearing for the Management that consequent to the settlement talk held between the Management and the Workmen, there was a consensus between them, as a result of which, the parties have entered into a Memo of Compromise dated 31.10.2019. The said representation has been duly affirmed by Mr.V.Prakash, learned Senior Counsel appearing for the Workmen. It is further represented that insofar as the legal heirs of Mr.V.K.Mohanasundaram (in W.P.No.35936 of 2016) are concerned, the amount will be paid to the wife of Mr.V.K.Mohanasundaram with due consent of the other legal heir, namely, son of Mr.V.K.Mohanasundaram.

5. For the sake of brevity, this Court feels it appropriate to extract the terms of compromise, which read as under:

"COMPROMISE MEMO FILED BY THE PARTIES

The parties agree as per below:

1. Mr.K.R.Nageswar Rao, the 2nd respondent in W.P.No.35937 of 2016 will be paid a sum of Rupees 22,00,000/- (Rupees twenty two lakhs only) in full and final settlement of his claims in regard to his non-employment with the petitioner management including terminal benefits such as Gratuity in accordance with the provisions of the Payment of Gratuity Act.

2.Mr.N .Kalyanasundaram, the 2nd respondent in W.P.No.35938 of 2016 will be paid a sum of Rupees 14,00,000/- (Rupees fourteen lakhs only) in full and final settlement of his claims in

regard to his non employment with the petitioner management including terminal benefits such as Gratuity in accordance with the provisions of the Payment of Gratuity Act.

3. Mr.Srinivasan, the 2nd respondent in W.P.No.35939 of 2016 will be paid a sum of Rupees 16,00,000/- (Rupees sixteen lakhs only) in full and final settlement of his claims in regard to his non employment with the petitioner management including terminal benefits such as Gratuity in accordance with the provisions of the Payment of Gratuity Act.

4. The legal heirs of Mr.V.K.Mohanasundaram, namely Tmt.Helon Sundar and V.M.Yogesh Mario Sundar, the 3rd and 4th respondent in W.P.No.35936 of 2016 will be paid a sum of Rupees 9,00,000/- (Rupees nine lakhs only) in full and final settlement of his claims in regard to his non-employment with the petitioner management including terminal benefits such as Gratuity in accordance with the provisions of the Payment of Gratuity Act.

5. The aforementioned payment shall be made by the management to each of the respondents mentioned above by way of demand draft within 2 weeks from today. On such payment, the worker undertakes to withdraw the claim petition filed by respective worker / respondent under section 33C(2) of Industrial Disputes Act, more particularly described in Paragraph 10 here-in-below, which are pending before 1st Additional Labour Court Chennai and are listed for hearing on 7th Dec.2019.

6. Insofar as the legal heirs of Mr.V.K.Mohanasundaram are concerned the payment of the aforementioned amount shall be made to his wife Tmt.Helon Sundar, for which the other legal heir namely V.M.Yogesh Mairio Sundar has no objection and in token of that they have affixed their signature to this memorandum of compromise. The payments shall be made by Demand Draft in the name of the individual / legal heir and may be handed over to the counsel for each of the respondents/legal heirs in the aforementioned writ petitions; who shall issue

appropriate acknowledgement. Provident fund accumulation with the Provident Fund Department, if any that is available to the credit of the aforementioned former employees as on this date can be directly claimed by the said person from the Provident Fund Department.

7. That the amount so payable hereunder may be treated as spread-over for the period of non-employment and may not be amenable to any deduction of Income Tax at source (TDS) under the provisions of the Income Tax Act, 1961.

8. That except the amount agreed to be paid hereunder, the former employee/legal heirs of V.K.Mohanasundaram shall not be entitled to claim any monetary/non-monetary benefit(s) whatsoever either under the Contract of Employment or under any Statute whatsoever.

9. That this settlement shall not constitute or be construed as an admission of any liability or admission of allegation attributed to the Company by the Respondent(s) but is a voluntary gesture of goodwill by the Company for the purpose of resolving the long pending dispute/claims regarding termination of his employment nor shall the same be cited as a precedent in any other proceedings that maybe pending / emerge against the management in future.

10. The following Claim petitions-

1. Claim Petition No.68 of 2016-K.R.Nageswara Rao v/s. Management of Chola Sheraton,

2. Claim Petition No.69 of 2016-Srinivasan v/s.Management of Chola Sheraton,

3. Claim Petition No.70 of 2016-N.Kalyanasundaram v/s. Management of Chola Sheraton, and

4. Claim Petition No.71 of 2016-Helon Sundar and another v/s. Management of Chola Sheraton, filed by the aforementioned former employees/legal heirs under section 33C(2) of

the Industrial Disputes Act 1947 which is pending on the file of I Additional Labour Court shall be withdrawn by them as a result of this memorandum of compromise and shall not be pressed.

The parties hereto will have this memorandum of compromise to be recorded by the Honourable High Court for orders to be passed in terms of this compromise memo."

6. In view of the above submissions made on either side and recording the compromise memo dated 31.10.2019, these Writ Petitions are disposed of. The Compromise Memo filed by the parties dated 31.10.2019 shall form part of this common order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ar
To:

The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai-600 001.

+4ccs to Mr.S.Rama subramaniam , Advocate SR.No. 91317 to 91310

W.P.Nos.35936 to 35939 of 2016
A.SK(12/11/2019)

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