

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 09th DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M.SUNDAR

O.P.No.522 of 2020

and

A.No.605 of 2022

In the matter of Section 11 of the
Arbitration and Conciliation Act,
1996.

And

In the matter of Clause 19 of the
Deputation Service Agreement
dated 07.06.2019 between the
Petitioner and the Respondent.

M/s. Randstad India Private Limited,
Represented by its Head Legal and
Regulatory Affairs and
Authorized Representative,
Mr.Tapos Moitra,
"Randstad House", Old No. 5 and 5A,
New No. 9, Pycrofts Garden Road,
Chennai - 600 006.

... Petitioner/Applicant

verus

M/s. Lumiford Private Limited,
Represented by its Chief Executive Officer,
Mr. Abhijeet Chatterjee, 5th Floor,
Urmila Heights, Road No. 10,
Banjara Hills, Hyderabad - 500 034

...Respondent/Respondent

O.P.No.522 of 2020:-

Original Petition praying that this Hon'ble Court be pleased to appoint a Sole Arbitrator, to adjudicate the dispute between the Petitioner and Respondent arising out of the Deputation Service Agreement dated 07.06.2019.

A.No.605 of 2022 :-

Application praying that this Hon'ble Court be pleased to restore on the file of this Hon'ble Court the present petition bearing number O.P. No. 522 of 2020 filed by the Applicant / Petitioner under the Section 11 (6) of the Arbitration and Conciliation Act 1996, as permitted by order dated 26.03.2021.

This Original Petition alongwith the application coming on this day before this court for hearing in the presence of Mr. V.V.Sivakumar, Advocate for the petitioner in O.P.No.522 of 2020 and for the applicant in A.No.605 of 2022 and M/s.Ami Kataria for Mr. P.J.Rishikesh, Advocates for the respondent in O.P.No.522 of 2020 and A.No.605 of 2022 and upon reading the petition filed in O.P.No.522 of 2020 and the judge's summons and the affidavit of Tapos Moitra filed in A.No.605 of 2022 and both

learned counsels having submitted that there has been progress in settlement talks, but conclusion of the talks is at the moment a little elusive but does not stand eliminated as an option, **it is ordered as follows:-**

1) That the O.P.No.522 of 2020 filed by the Applicant/Petitioner under section 11 (6) of the Arbitration and Conciliation Act, 1996, be and is hereby restored.

2) That Mr. K.M.Aasim Shehzad, Advocate, having address for service at M/s.BFS Legal, No.47/1, Rams Surabi Apartments, 1st Main Road, R.A.Puram, Chennai - 600 028, Ph: 044-43535443, Mob: 9841026786, Email: aasimshehzad@bfslegal.in be and is hereby appointed as the Sole Arbitrator.

3) That learned Sole Arbitrator appointed herein, be and is hereby requested to enter upon reference and adjudicate upon the arbitral disputes that have arisen between the parties.

4) That the Learned Arbitrator appointed herein, be and is hereby requested to conduct arbitration in the 'Arbitration and Conciliation Centre under the aegis of this Court' (MHCAC) in accordance with the Madras

High Court Arbitration Proceedings Rules, 2017.

5) That the Learned Arbitrator's fee shall be as per Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

6) That there shall be no order as to costs.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 09th DAY OF MARCH 2022.

Sd/-

ASSISTANT REGISTRAR (O.S. II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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ARS

22.03.2022

O.P.No.522 of 2020
and
A.No.605 of 2022

ORDER

DATED : 09.03.2022

THE HON'BLE MR. JUSTICE
M.SUNDAR

FOR APPROVAL : 22.03.2022

APPROVED ON : 22.03.2022

Copy to:-

1. Mr.K.M.Aasim Shehzad,
Advocate,
M/s. BFS Legal, No.47/1,
Rams Surabi Apartments,
1st Main Road, R.A.Puram,
Chennai - 600 028,
Ph: 044-43535443,
Mob: 9841026786
Email: aasimshehzad@bfslegal.in
2. The Director
Tamil Nadu Mediation
Conciliation Centre
-cum- Ex-Officio Member
Madras High Court,
Arbitration Centre
Chennai - 104

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

Application No.605 of 2022

in

O.P.No.522 of 2020

&

O.P.No.522 of 2020

M/s.Randstad India Private Limited,
Represented by its Head Legal and
Regulatory Affairs and
Authorized Representative Mr.Tapos Moitra,
"Randstad House", Old No.5 and 5A,
New No.9, Pycrofts Garden Road,
Chennai- 600 006.

... Petitioner

Vs.

M/s. Lumiford Private Limited,
Represented by its Chief Executive Officer
Mr.Abhijeet Chatterjee, 5th Floor
Urmila Heights, Road No.10,
Banjara Hills, Hyderabad - 500 034

.... Respondent

Application filed under Order XIV Rule 8 of the Original Side

Rues read with Section 151 of the Code of Civil Procedure, 1908 to restore

on the file of this Court the present petition bearing number O.P.No.522 of 2020 filed by the Applicant/ Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996, as permitted by order dated 26.03.2021.

For Petitioner : Mr.V.V.Sivakumar

For Respondent : Ms.Ami Kataria

for Mr.P.J.Rishikesh

ORDER

This common order will govern the captioned application and captioned OP.

2. Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 22.02.2022, which reads as follows:

'Mr.V.V.Sivakumar, learned counsel for applicant/petitioner and Mr.P.J.Rishikesh, learned counsel for respondent /respondent are before this Court.

2. *Learned counsel for applicant/petitioner submits that captioned OP was presented inter alia under Section 11(6) of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of convenience and clarity] for appointment of an Arbitrator based on an agreement dated 07.06.2019 captioned 'DEPUTATION SERVICES AGREEMENT'. Pending captioned main OP, a Deed of Compromise dated 16.03.2021 was entered into and the captioned OP was disposed of by Hon'ble predecessor Judge on the basis of the Deed of Compromise vide an order dated 26.03.2021.*

3. *Stating that the payment schedule under the Deed of Compromise has not been adhered to after the 7th payment, captioned application has been filed with a prayer to restore O.P.No.522 of 2020. Though the prayer says 'restore' it may be appropriate to say 'resuscitate', because the OP has been given legal quietus. In other words, it was not dismissed for default.*

4. *Be that as it may, learned counsel for respondent on instructions submits that there is still a*

possibility of settlement and the intervening Corona virus pandemic and consequent lock down, which shall collectively be referred to as 'Covid-19 situation' caused the derailing of deed of compromise.

5.Learned counsel submits that if a fortnight's time is given, he may be able to explore the possibility of giving quietus to the matter.

6. List under the caption 'FOR REPORTING SETTLEMENT' on 09.03.2022.'

3. In the hearing today, Mr.V.V.Sivakumar, learned counsel for applicant in captioned application / petitioner in captioned OP and Ms.Ami Kataria, learned counsel representing the counsel on record for respondent in the captioned application and OP are before this Court.

4. Both learned counsel submit that there has been progress in settlement talks, but conclusion of the talks is at the moment a little elusive but does not stand eliminated as an option.

5. Be that as it may, captioned OP is under Section 11(6) of A and C Act. There is no disputation or disagreement between the parties about the existence of an arbitration agreement. Therefore, Mr.K.M.Aasim Shehzad, Advocate, having address for service at M/s. BFS Legal, No.47/1, Rams Surabi Apartments, 1st Main Road, R.A.Puram, Chennai - 600 028,

Ph: 044-43535443, Mob: 9841026786, Email: aasimshehzad@bfslegal.in is appointed as the sole Arbitrator. Learned sole Arbitrator is requested to enter upon reference and adjudicate upon the arbitral disputes that have arisen between the parties. Hon'ble Arbitrator is requested to conduct arbitration in the 'Arbitration and Conciliation Centre under the aegis of this Court' (MHCAC) in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and Hon'ble Arbitrator's fee shall be as per Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

6. To be noted, owing to the innocuous prayer and trajectory the captioned OP is taking, A.No.605 of 2022 is ordered as prayed for and therefore, captioned Arb.OP is resuscitated and disposed of on above terms. There shall be no order as to costs.

Sd/-M.S.J.
09.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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