



W.P.(MD).No.22399 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 03.11.2022

ORDER PRONOUNCED ON : 10 .11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR
W.P.(MD).No.22399 of 2015

P.Ravindran

....Petitioner

Vs

1.The Secretary
Ministry of Overseas Indian Affairs
(Emigration Division)
1022, Akbar Bhawan
Chanakayapuri
New Delhi, India

2.The E.S.P(Asia) Pvt.Ltd.,
10,17, 1st Floor Neco Chamber
Plot No.48, Sector II CBD Belapur
Navi Mumbai 400 614
Maharashtra State

3.The ESP Synerga (M) SDN BHD
E 10-2, Plaza Mont Kiara
No.2, Jalan Kiara
50480 Kuala Lumpur
Malaysia

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to instruct the third respondent to make proper enquiry, regarding the pending salary of Rs.23,80,000/- and considering the representation of the petitioner dated 25.08.2015.



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For Petitioner : Mr.P.Ravindran
Party-in-person

For R1 : Mrs.L.Victoria Gowri
Deputy Solicitor General of India

ORDER

The present writ petition has been filed seeking a mandamus directing the first respondent to instruct the third respondent to make proper enquiry regarding the pending salary of Rs.23,80,000/- and consider his representation dated 25.08.2015.

2.The party-in-person had contended that he worked as a project Manager in the third respondent Company in Malaysia and he was assured with salary of Rs.3,40,000/- per month. He had received the first month salary for the month of December 2011. Though he continued his service as a Project Manager, the third respondent had failed to pay his salary for the month of January 2012 to July 2012 to a sum of Rs.23,80,000/-.

3.According to the petitioner, he has entered into the service through a valid Contract and hence, he is entitled to receive salary and other benefits as per the said Contract. According to the party-in-person, the first respondent is the authority to look after the citizens who are working abroad and they are



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answerable in case if any breach of contract occurs in foreign country. Hence, he had sent a representation to the first respondent on 02.04.2012. Though a formal reply was sent to him, there was no further action from the first respondent herein. As the visa had expired, the third respondent had taken away the petitioner's passport and it was not returned to the petitioner. Hence, the petitioner had reached India through an emergency passport. Hence, the present writ petition has been filed seeking a direction to the first respondent to initiate action as against the third respondent and recover salary from the third respondent.

4.The learned Deputy Solicitor General on written instructions from the first respondent had contended that the petitioner was an employee in a joint venture company in Malaysia. The petitioner in his representation has highlighted various mismanagement and financial fraud of the third respondent company. However, the Ministry is no way connected or empowered to oversee the functioning of the joint venture company. The first respondent is only concerned with the safety and security of the Indian National abroad and repatriation of the distressed Indians on regular basis.

5.The learned Deputy Solicitor General had placed on record that the present dispute appears to be an issue of non-payment of salary and other dues from the private company in which the petitioner was working as a Project Manager. According to the learned Deputy Solicitor General, the issue



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is beyond the purview of Section 10 of the Emigration Act, 1983 and hence, they are not in a position to render any legal help to the writ petitioner.

6. I have considered the submissions made on either side and perused the materials available on record.

7.A perusal of the averments in the affidavit and the representation made by the writ petitioner clearly indicates that the petitioner was employed as a Project Manager in the third respondent Company which is a private Company located in Malaysia. According to the averments, he was not paid salary for the period between January 2012 to July 2012 which is around Rs.23,80,000/-. Only for recovery of the said salary dues, the petitioner has approached the first respondent Ministry seeking their help. However, the first respondent has expressed their ineligibility to interfere in the said matter on the ground that it does not relate to the safety and security of the Indians abroad or any repatriation of distressed Indians. They have also expressed their ineligibility to come to the rescue of the petitioner on the ground that the petitioner seeks to recover his salary dues based upon a Contract. I find there is force in the submission made on the side of the first respondent. The first respondent cannot be called upon to settle the dispute between the petitioner and the third respondent arising out of a Contract.



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8.In view of the above said finding, I do not find any merit in the writ petition. The writ petition stands dismissed. However, the petitioner is always at liberty to pursue his remedy before the appropriate forum. No costs.

10.11.2022

Internet : Yes/No
Index : Yes/No
msa

To

The Secretary
Ministry of Overseas Indian Affairs
(Emigration Division)
1022, Akbar Bhawan
Chanakayapuri
New Delhi India



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R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

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