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Arb.O.P. No.11 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.08.2024

Pronounced on : 20.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Arbitration Original Petition No.11 of 2024

M/s.Cheran Constructions Limited
Rep. by its Authorised Signatory,
Mr.K.Anand,
No.78, 3rd Floor, Cheran Towers,
Government Arts College Road,
Coimbatore-641 018.

.. Petitioner

/versus/

N.Srinivasan

.. Respondent

Arbitration Original Petition filed under Section 11(4) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate the disputes between the petitioner and the respondent in term of the Letter of Employment Agreement dated 06.09.2021.

For Petitioner : Mr.S.S.Rajmakesh

For Respondent : Mr.Arjun Suresh



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ORDER

This arbitration original petition is filed under Section 11(4) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator to adjudicate the dispute between M/s.Cheran Constructions Ltd., and N.Srinivasan in term of the Letter of Employment Agreement dated 06.09.2021.

2(a).The factual matrix of the case is as follows:

The petitioner is running various Educational Institutions and organizations and the respondent herein has been appointed by the Human Resources Department of the Petitioner company on 06.09.2021 as 'Admin Manager' in Construction Department of the petitioner company at Coimbatore based on the employment agreement dated 06.09.2021 ('**employment letter/agreement**'). As per the terms of the employment letter/agreement, the respondent was duty bound during the term of his employment to abide by the rules, regulations, instructions, practices and policies of the petitioner company including without limitation as set out in the HR policies *vide* clause 1 of the employment letter/agreement. The respondent has substantially failed in the discharge



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of his duties in terms of the employment letter/agreement by *inter alia* absconded from duty without giving any information or intimation to his reporting authority.

2(b). According to the petitioner, the respondent absented himself from work w.e.f 02.06.2022 without any valid intimation to any reporting authority. A warning letter dated 19.06.2022 ('**first warning letter**') by way of an email to the respondent calling upon him to resume his work and second warning letter was issued on 24.06.2022.

2(c). In spite of the issuance of the warning letters, the Respondent failed to approach the HR department of the Petitioner Company to complete the exit formalities and therefore, it is clear that the Respondent has unauthorisedly abandoned the employment from 02.06.2022 without any valid reason. The respondent is liable to pay the liquidated damages which is the amount equivalent to three months gross salary and other damages of refund of advance received by the Respondent amounting to Rs.4,45,000/- (Rupees Four Lakhs forty five thousand only).



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3. I find that there is an employment agreement provides for referring the matter to the arbitration in accordance with the Arbitration and Conciliation Act, 1996 at Clause 18 which was not disputed by the petitioner. Hence whether such a Clause 18 of employment agreement has entered between the parties is in consonance with the Section 21 of the Arbitration and Conciliation Act and the Arbitration petition is filed for recovery of Rs.4,45,000/- (Rupees Four Lakhs forty five thousand only) alone.

4. After hearing both the parties, I find that both the parties are residing in Coimbatore District. Accordingly, ***Mr.P.Vijay Raghunath, Advocate, No.90, School Road, Krishnaswamy Nagar, Coimbatore-641 045, Mobile No:98947 14242, Email:rpanchapakesan007@gmail.com,*** at Coimbatore is appointed as arbitrator. Both parties shall appear before the Arbitrator at Coimbatore and arbitration shall commence on or before 05.12.2024 and within 60 days time, the arbitrator is entitled for the fees under the Arbitration and Conciliation Rules of the High Court.



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5. Accordingly, this Arbitration Original Petition is allowed.

No Costs.

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PJL

Neutral citation : Yes / No

Index : Yes / No

Speaking order : Yes / No



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RMT.TEEKAA RAMAN,J.
PJL

Pre-delivery Order in
Arbitration Original Petition No.11 of 2024

20.11.2024