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Cont P.No.668 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE SENTHILKUMAR
RAMAMOORTHY, J.,

Contempt Petition No.668 of 2023

S.Selvam
S/o.Somuvel

.. Petitioner

Vs.

Sathiya Subramanian
The General Manager (P) - offg
The Senior Manager, HRD
Air India Limited
(Now known as National Aviation Company of India Limited)
Air India Unity Complex
Pallavaram
Chennai-600 043.

.. Respondent

Contempt petition filed under Section 11 of the Contempt of Courts Act, praying to initiate contempt proceedings against the respondent for committing wilful disobedience of the order of this Hon'ble High Court passed in W.A.No.490 of 2020 dated 17.06.2020.

For Petitioner : Ms.M.S.Soorya Bharathi
For Respondent : Mr.K.Srinivasa Murthy



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ORDER

(Order of the Court was made by **M.SUNDAR, J.,**)

Captioned contempt petition has been filed by appellant in W.A.No.490 of 2020 complaining of non-compliance qua 'order dated 17.06.2020 made in W.A.No.490 of 2020' {'said order' for the sake of convenience}. To be noted, said order was made by a Division Bench presided by then Hon'ble Chief Justice with one of us (SENTHILKUMAR RAMAMOORTHY, J) in the Division Bench.

2. The 'appellant (S.Selvam)' who is before us shall hereinafter be referred to as 'concerned employee' for the sake of convenience and clarity and 'respondents in writ appeal' as well as 'lone respondent' before us, who is General Manager of the Airline concerned shall be referred to as 'Management concerned' for the sake of convenience and clarity.

3. In any by said order, Hon'ble Division Bench held in favour of concerned employee *inter alia* restoring an award made by Industrial Tribunal, Chennai being an award dated 10.07.2008 in Industrial Dispute No.121 of 2005. The Management concerned carried the matter to



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Hon'ble Supreme Court vide SLP(C) Nos.11418-11419 of 2020 and SLP

was summarily dismissed on 11.04.2022. To be noted, the Industrial

Tribunal award disposed of a reference pertaining to concerned employee turning on regularization but it is not necessary to dilate more on facts.

After some earlier listings, today Ms.M.S.Soorya Bharathi, learned counsel for contempt petitioner / concerned employee and

Mr.Srinivasamurthy, learned counsel for Management concerned (lone respondent in contempt petition) are before us. Both learned counsel

submitted in unison in one voice that parties have arrived at a settlement

and have reduced terms of settlement into writing vide a 'memorandum of compromise dated 13.06.2024' {hereinafter 'said MOC' for the sake of

brevity}. Said MOC has been placed before us and a scanned reproduction of the same is as follows:



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**IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Original Jurisdiction)**

Cont.P.No.668 of 2023

In

W.A.No.490 of 2020

S.Selvam

...Petitioner

Vs.

Sathya Subramanian

...Respondent

MEMORANDUM OF COMPROMISE

The Memorandum of Compromise has been entered between S.Selvam, S/o. Somuvel, No.2, Jomazham Nagar, Thirunelmalai Road, Kodipet, Chennai-600 045. (Herein after refer as the Petitioner)

And

Air India limited Rep.by. Its General Manager, (Personnel), - present designation: Lead-HR Business Partnering, having office at General Manager (Personnel), Air India Ltd, 7th Floor, No.22, Old No.25, Indira Gandhi Atrium Viceroy, Sardar Patel Road, Gundy, Chennai- 32 (Herein after refer as the Respondent)

1. The Petitioner employee filed W.A.No.490 of 2020 against the order dt.14.10.2020 in W.P.No.11684 of 2009. The said Writ Appeal was allowed by this Hon'ble Court vide order dt.17.06.2020 in W.A.No.490 of 2020.

2. The Respondent settled the benefits due to the Petitioner vide cheque dt.11.07.2022 and the Petitioner has encashed the same.

S. Selvam

Sathya
SATHYA SUBRAMANIAN
Chief Manager - HRBP SR
Air India Limited
Southern Region
Chennai-600 032



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3. Not satisfied with that, the Petitioner filed Cont.P.No.668 of 2023 before the Hon'ble Madras High Court alleging that the amount paid by the Respondent is not correct.

4. The Respondent took a stand that, if at all the Petitioner has any grievance he has to file a Commutation Petition before the Labour Court and there is no question of Contempt.

5. The Petitioner has made a submission that he is 63 years and going to the Labour Court would only delay the matter and he may not get the relief in reasonable time and he is willing to negotiate with the management and settle the matter amicably.

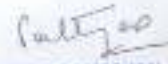
6. Now pursuant to the suggestion made by this Hon'ble Court, the Respondent management and the Petitioner have settled the matter on the following terms.

(i) The Respondent shall pay a sum of Rs.13,99,105/- (Rupees Thirteen lakhs ninety nine thousand one hundred and five only) as full and final settlement of all claims already made by the Petitioner or if any to be made by the Petitioner.

(ii) The Petitioner accepts the above amount as full and final settlement of all his claims including all benefits statutory and non statutory and others and the Petitioner further undertakes neither he nor his representative will make any claim whatsoever against the Respondent Management.

(iii) The parties agree that this memo will be placed before the Hon'ble Division Bench and the parties agree that whatever is agreed herein will be in full quits between the Petitioner and the Respondent and the Petitioner will have no other claim whatsoever under whatever head against Air India Limited.

S. Suba


GATHIYA SUBRAMANIAN
Chief Manager - HR&P SR
Air India Limited
Southern Region,
Chennai-600 032



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7. The Management agreed that they will pay the above amount by way of Bank transfer to the Petitioner and the Petitioner agrees to pass on full and final receipt in full quits of the CGIT's Award dt 10.7.2008 in ID No.121/2005 read with the Judgement of this Hon'ble Court dt 17.6.2020 in W.A.No. 490 of 2020 and upon signing this Memorandum of Compromise, it is agreed between parties that the above Award and all other proceedings initiated on that basis stands substituted by way of this memorandum of Compromise.

Agreeing to the above terms the parties have signed to this among along with their Advocates.

Dated at Chennai this the 13th day of June, 2024.

S. Shree—
PETITIONER

COUNSEL FOR PETITIONER

RESPONDENT
A SUBRAMANIAN
Chief Manager - HRBP SR
Air India Limited
Southern Region,
Chennai-600 032.

COUNSEL FOR RESPONDENT

4. Both parties submit that they would carry the matter to its logical end qua said MOC. This submission is recorded.

5. However, we make it clear that we have not recorded said MOC and such a course is normally not adopted in contempt jurisdiction



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but we are making a departure by resorting to powers under Article 215 of Constitution of India as a lone workman in a erstwhile PSU and his livelihood is the issue.

6. Both learned counsel request for a closure to the contempt petition but request for further listing to report further compliance. This common request is acceded to and the following order is made:

(i) Captioned Contempt Petition is disposed of as closed i.e., a closure is given to the captioned contempt petition;

(ii) Parties shall carry said MOC to its logical end and report further compliance notwithstanding closure of contempt petition;

(iii) Though captioned contempt petition is disposed of as closed, captioned contempt petition shall be listed before this Special Bench in the next listing under the cause list caption 'FOR REPORTING FURTHER COMPLIANCE'.



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M.SUNDAR.J.,
and

SENTHILKUMAR RAMAMOORTHY, J.,

mk

(iv) If further compliance is not reported,
we make it clear that this Bench may revive /
resuscitate the captioned contempt petition.

(M.S.,J.) (S.K.R.,J.)
05.09.2024

Index: Yes/No
Neutral Citation: Yes/No
Speaking order / Non-speaking order

mk

P.S: Though captioned contempt petition is disposed of as closed,
Registry is directed to list the same before this Special Bench in the next
listing under the cause list caption 'FOR REPORTING FURTHER
COMPLIANCE'.

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