

## BEFORE THE LABOUR COURT, COIMBATORE.

Present : - J.Flora, M.L.,  
Presiding Officer,  
Labour Court, Coimbatore.

COMPUTATION PETITION No.129/2012

Tuesday, the 28<sup>th</sup> day of March – 2017.

P. Subramanian (53/2012),  
S/o. Palanisamy,  
No.4/14, Vishnu Illam,  
Jai Nagar 3<sup>rd</sup> Street, Kangeyam Road,  
Tirupur-641 606.

...

Petitioner

....Versus...

The Management of  
Bojarajan International.

...

Respondent

This petition coming for final hearing before me on 09.03.2017 in the presence of Thiru.K.Subramanian, Advocate for the petitioner and Thiru.P.Thirugnanasambantham, Advocate for the respondent and upon perusing the petition, counter, documents, evidence and upon hearing the arguments on both sides and having stood over till this day for consideration, this court passed the following:-

ORDER

The petitioner has filed this petition under Section 33-C (2) of the Industrial Disputes Act, 1947 praying for computing the amount due to the petitioner at Rs.1,37,631/- and to direct the respondent to pay the same with interest at the rate of 18% per annum and cost.

2. The averments in the claim petition in brief are as follows :-

The respondent is one of the leading export companies of ready made garments of Tirupur exporting ready made garments to several countries and has been earning huge profits. The petitioner joined the respondent

Organization on 2.4.2009 as Export Document-Incharge and he had been working with continuity of service looking after bank work, Apparels Export Promotion Council work, Textile Committee work, preparing export documents and paper work relating to Auditor of the respondent. He had been discharging his duties efficiently, obediently and to the satisfaction of his employer. His last drawn monthly salary was Rs.11,500/-. His age is 53 years as on 4.7.2012. The petitioner was retrenched from the service on 15.3.2012 by an order of the respondent dated 15.3.2012 in which the respondent agreed to settle the following items due to the petitioner with effect from 15.3.2012 namely :-

a)	Salary due for the period from 1.11.2011 to 15.3.2012 for 4-1/2 months at the rate of Rs.11,500/- per month	Rs.51,750.00
b)	Petrol and mobile phone allowance for the period 1.4.2011 to 15.3.2012	Rs.23,000.00
c)	Compensation and leave salary for the period from 2.4.2009 to 15.3.2012	Rs.45,000.00
d)	Arrears of bonus for the period 2009-2010, 2010-2011, 2011 to 15.3.2012	Rs.47,881.00
e)	One month notice pay	Rs.11,500.00
	Total	Rs.1,79,131.00
	Less: Salary advance for the period 2.4.2009 to 15.3.2012	Rs.41,500.00
	Balance amount due to the petitioner	Rs.1,37,631.00

The respondent agreed to the settlement and hence he was relieved from his duties on the same day, 15.3.2012. In spite of several representations in person to his employer, he was not paid the final settlement amount agreed by the employer in her letter dated 15.3.2012. Therefore, the petitioner prays to direct the respondent to compute the amount due to the petitioner at R.1,37,631/- together with interest at the rate of 18% per annum and cost.

3. The averments in the Counter in brief are as follows :-

The petition is not maintainable in law and facts. The petitioner worked as Export Document In-charge looking after bank work, Apparels Export Promotion Council work preparing documents relating to Income tax, Sales tax and was a consultant on contractual basis in the field of banking and documentation for export sales. Similarly during the same period he prepared documents and was a Consultant for other companies also. Due to the action taken by the Tamil Nadu Pollution Control Board the dyeing units were closed and so the apparels export was affected and they were unable to repay the loan. So the respondent company was closed from 20/11/2011 onwards prior to that in October 2011 the respondent had paid an advance amount of Rs.40,000/- to the petitioner. Apart from that the petitioner was holding the respondent company's letter pads, rubber stamps, Foreign Inward Remittance Certificate Bank and Realisation Certificate. In spite of repeated demands and requests the petitioner had not handed over the document and advance amount to the respondent and so the respondent faced difficulty in submitting the document to Sale Tax and Income Tax Department. In view of the same the respondent had issued a legal notice to the petitioner on 7.6.2012 calling upon him to return the advance amount and original documents such as Foreign Inward Remittance Certificate and Bank Realisation Certificate, Thereafter, the petitioner had forged the papers in which the signature alone was fixed by the proprietor and had prepared the Retrenchment Notice. The petitioner is not a permanent workman and is not employed by the respondent. The Petitioner was a consultant in the field of banking and documentation for many companies. The respondent did not agree to settle the compensation and the salary for the leave period, petrol, mobile phone allowance, arrears of bonus and one month notice pay. The letter dated 15.03.2012 was not issued by the respondent and it was forged by the petitioner. Hence, the claim petition is liable to be dismissed with costs.

4. The points for consideration is as follows:-
- (i) Whether the petitioner is entitled to get the amount as claimed in the petition?
  - (ii) To what relief the petitioner is entitled?
5. During enquiry the petitioner himself examined himself as W.W.1 and marked Ex.W.1 The respondent has examined the husband of the proprietor, as M.W.1 and marked Ex.M1 to M6.

6. POINT Nos. 1 and 2 :-

The petitioner has laid the above claim petition claiming Salary due for the period from 01.11.2011 to 15.3.2012, Petrol, mobile phone allowance, Compensation leave salary, Arrears of bonus and one month notice pay totalling to the tune of Rs.1,37,631.00/- The petitioner's case is that he had been working with continuity of service looking after bank work and preparing export document and paper work relating to the respondent and he was retrenched from service on 15/03/2012 under Ex.W1. The defence of the respondent is that the petitioner was a consultant on contractual basis and he was a consultant for several companies and that the respondent had received enforcement of security interest action Notice from the Union Bank of India.

7. The main contention of the petitioner is that he worked as document export in charge under the respondent and received monthly salary as Rs.12,000/- towards consultation charges Ex.W1 the retrenchment order is the only document relied by him. It is quite evident that the respondent has not issued any appointment order to the petitioner or has not issued any order that he is a permanent workman. On the other hand it is contended by the respondent that Ex.W1 has been forged by him. It is evident from exhibit M2 that the Union Bank of India, SSI branch, Tripur had issued a Notice to the respondent calling upon them to repay the loan availed by the respondent and thereafter a Notice Ex.M3 has been sent to the respondent on 21.01.2012 by the Union Bank of India Coimbatore, Regional Office asking the respondent to pay the dues, failing which the Debt Recovery Tribunal would take action against the respondent and

thereafter as per M4 Notice to take possession of the secured assets was sent to the respondent. Further a perusal of Ex.M5 shows that the name of the petitioner is not mentioned in the Attendance Register. On 07.07.2012 the respondent had issued legal Notice to the petitioner Ex.M6 calling upon him to return the advance sum of Rs.40,000/- and the original document (i.e.,) Foreign Inward Remittance Certificate and Bank Realisation Certificate. Hence, it is quite clear that due to the above constraints the respondent was not in a position to run the Unit. When there is no letter of appointment this Court is at a loss of to understand as to how W1 the alleged letter of retrenchment came into existence. Another aspect which is seen is that there is only initial signature of the Proprietor. A mere comparison of Ex.W1 with Ex.M1 the authorization letter reveals that the proprietor of the respondent company had affixed her full signature whereas in Ex.W1 the alleged Record only the initial of the proprietor is found which is held to be unbelievable and unreliable. Hence for the aforesaid reasons, the petitioner is not entitled to any relief and thus these points are answered accordingly.

In the result, this Computation Petition is dismissed. Both parties are directed to bear their own cost.

Dictated to Steno-typist and transcribed and typed in Computer by her and then corrected and pronounced by me in this open Court on this the 28<sup>th</sup> day of March -2017.

Sd/  
PRESIDING OFFICER,  
LABOUR COURT, COIMBATORE.

LIST OF WITNESSES EXAMINED

Petitioner's Side : W.W.1 Thiru .P.Subramanian

Respondent's Side: - M.W.1 Thiru.Bojarajan

LIST OF EXHIBITS MARKEDPetitioner's Side : -

Ex.W 1 15.3.2012 Original Settlement letter

Respondent's Side:-

Ex.M 1 6.3.2014 Original Authorization Letter

Ex.M 2 15.12.2010 Xerox copy of final recall notice

Ex.M 3 21.1.2012 Xerox copy of Letter by Union Bank of India

Ex.M 4 21.5.2012 Xerox copy of Letter by Union Bank of India

Ex.M 5 1.11.2009 Original Attendance register

to  
31.12.2012

WEB COPY

Ex.M 6 7.6.2012 Office copy of Advocate Notice

Respondent's Side: Nil

Sd/

PRESIDING OFFICER,  
LABOUR COURT, COIMBATORE.

/TRUE COPY/