

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

MONDAY, THE 22ND DAY OF JULY 2019 / 31ST ASHADHA, 1941

WP(C).No.21584 of 2015

PETITIONER:

CAPTAIN A.C. VARGHESE
ARIMPUR HOUSE, ATS ROAD, CHALISSERY,
PALAKKAD- 679 536.

BY ADVS.
SRI.P.RAMAKRISHNAN
SMT.ASHA K.SHENOY
SMT.PREETHI RAMAKRISHNAN (P-212)
SRI.C.ANIL KUMAR
SRI.PRATAP ABRAHAM VARGHESE
SRI.S.K.HARISH
SRI.T.C.KRISHNA

RESPONDENTS:

- 1 SHIPPING CORPORATION OF INDIA LTD.
SHIPPING HOUSE, 245, MADAME CAMA ROAD,
MUMBAI-400 021.
- 2 THE DIRECTOR (P & A)
SHIPPING CORPORATION OF INDIA LIMITED,
SHIPPING HOUSE, 245, MADAME CAMA ROAD,
MUMBAI-400 021.
- 3 THE GENERAL MANAGER
SHIPPING CORPORATION OF INDIA LTD., SHIPPING HOUSE,
245, MADAME CAMA ROAD, MUMBAI-400 021.

BY ADV. SRI.JOY THATTIL ITTOOP, SC, SHIPPING
CORPORATION OF INDIA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22.07.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

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Petitioner, who was a Master Mariner in the services of the 1st respondent - Shipping Corporation of India, has filed this writ petition seeking to set aside Exts.P4 and P5 and to direct the respondents to reinstate him in service with continuity of service and back wages.

2. The petitioner states that he was a Master Mariner working under the 1st respondent. His service was terminated in pursuance of Ext.P4 alleging unauthorised leave during the period 2010-2011 and also for the alleged absence from duty with effect from 29.10.2012. Subsequently, the 3rd respondent has issued Ext.P5 order stating that the service of the petitioner stands terminated with effect from 27.10.2012 and directing the petitioner to remit ₹1,42,935/- as pay in lieu of three months notice period. The petitioner has urged various legal grounds in the writ petition.

3. Learned Standing Counsel for respondents 1 to 3 appeared in the writ petition, filed counter affidavit and opposed the writ petition on legal grounds and merits.

4. After hearing the counsel on either side, I find that Clause 138 of the Twenty Third MUI - INSA Agreement entered into between the Maritime Union of India and Indian National Ship Owners' Association provides for adjudication/settlement of such disputes by way of a mechanism of three-tier arbitration. Counsel on either side submit that Clause 138 will apply to the case.

Accordingly, the writ petition is disposed of permitting the petitioner to invoke the remedy under Clause 138 of the aforesaid agreement within a period of two months. If the petitioner invokes such remedy within such period, the proceedings initiated as per Ext.P5 will be kept in abeyance till the conclusion of such arbitration proceedings.

Sd/-
N. NAGARESH, JUDGE

aks/22.07.2019

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE E-MAIL SENT BY THE PETITIONER TO THE 1ST RESPONDENT.
EXHIBIT P2	TRUE COPY OF THE LETTER DATED 3/01/2014 FROM THE 3RD RESPONDENT TO THE PETITIONER.
EXHIBIT P3	TRUE COPY OF REPRESENTATION DATED 17/01/2014 FROM THE PETITIONER TO THE 3RD RESPONDENT.
EXHIBIT P4	TRUE COPY OF LETTER DATED 11/03/2014 FROM THE 3RD RESPONDENT TO THE PETITIONER.
EXHIBIT P5	TRUE COPY OF LETTER DATED 16/12/2014 FROM THE 3RD RESPONDENT TO THE PETITIONER.
EXHIBIT P6	TRUE COPY OF SAID LETTER DATED 27/03/2015 FROM THE PETITIONER TO THE 3RD RESPONDENT.