

**BEFORE THE COURT OF SH. SATISH AHLAWAT
Presiding Officer, Industrial Tribunal cum
Labour court-2 Gurgaon, Haryana**

In the matter of an Industrial Dispute

BETWEEN

The management of M/S. V&S International, Through Managing Director ,
Plot No. 301, Phase II, Udyog Vihar, Gurgaon-122016 (Haryana)

AND

Its workman Shri Shamsheer Ansari, S/o Sh. Jamiruddin Ansari, Folder, ID
No. 0506, C/o Padam Kumar, Society for Labour and Development,
5-L, 1st Floor, Shahpur Jat, New Delhi – 49.

**STATEMENT OF CLAIM ON BEHALF OF THE
WORKMAN AFORESAID**

It is respectfully submitted as under :-

1. That the workman Shri Shamsheer Ansari joined V&S International (previously known as V&S Tex Nits Pvt Ltd), Plot 262, Phase IV, Udyog Vihar, Gurgaon, on November 28, 2006. The workman was hired to work as a Folder in the Finishing and Packing Department. He was told he would be a casual worker and his V&S identification number is 0506. The workman was appointed for a permanent job, but treated as a casual worker. He worked more than 240 days in twelve calendar months.

2. That in early December, 2007, the workman requested the Packing In-Charge, Mr. Nishar Ahmed for leave in order to take care of personal matters, including his health. Mr. Ahmed agreed to give leave. The workman booked train tickets to go to his village in Jharkhand and submitted a leave form on December 18th for 11 days. Mr. Nishar rejected his leave application, in spite of having agreed before. The workman, already having made commitments and reservations, left for his village on December 19th. He took care of his matters, including his health issues.

3. That on January 3rd, 2008, the workman returned to the V&S factory and was told by Mr. Ahmed that he was terminated, without notice or reason, and that he could collect his payment on January 30th. He was also instructed to return on January 10th for further discussion on payment.

4. That on January 10th, 2008 the workman returned and was told to submit a resignation letter indicating that he had decided to resign of his own volition. Refusing to tell a lie, the workman submitted a letter in which he requested to know why he had been terminated without reason. Mr. Ahmed refused to receive the letter. When the

workman asked him to mark the letter to indicate that he would not receive it, Mr. Ahmed marked the letter with a cross.

5. That the termination of the workman without any reason and notice, came as a shock to him since he was a good worker.
6. That during the period of his employment, the workman was never paid the full amount according to the Haryana Government's rate for basic pay for semi-skilled worker. Since June 2007, Haryana Government's new rates began to apply. The workman began getting the new rate only in September 2007 and was told that casual workers would not get arrears for July and August 2007.
7. That the workman was last paid for October, during the last week of November. He has not been paid at all for November and December 2007.
8. That the workman regularly worked overtime but did not get paid the government's prescribed double rate. For the first three months (December 2006 – February 2007), the workman was told that as a new worker, he would get paid only basic rate (single rate) for overtime. Since July 2007, that is after the new Haryana

government's rates began to apply, the workman was told that he would get double the basic rate for first two hours of overtime in a day, and single rate for rest of the overtime hours.

9. That the workman did not receive even one day off per week throughout this employment.
10. That the workman has been paid Rs. 53884/- during the period of this employment which includes basic and overtime pay. This is far short of the government's prescribed basic and overtime rate, totalling Rs. 1,71,480/- for the workman.
11. That the workman was forced to work double shifts. He received no food allowance during overnight stay.
12. That the workman received no pay slip for wages at any time and did not get Provident Fund and ESI.
13. That the payment of the workman was delayed regularly. The basic pay for the month worked would be given usually towards the last week of the following month. Overtime payment would be given separately only after two months of having done the work.

14. That the workman has not received any bonus payment in spite of the fact that V&S International has growing profits. According to Birla Cellulose, "It is often quoted in most summits and meeting in the textile fraternity that the bottleneck area which is actually impeding the growth of the textile industry and its export is that of processing. This is a success story of a company [V&S International] which took this problem and turned it into an opportunity. Today the management is not only debottlenecking the textile fraternity but is also raking in money in the process. Mr. C.P. Gauba, the promoter of this company started V&S almost a decade back and over this short time span, the company has seen unprecedented growth..." V&S today with a turnover in excess of 35 Million USD per annum (some estimates are USD 50 million – USD 100 million per annum), has emerged as a key player in the export market.

15. That the workman had no grievance mechanism within V&S International that he could use for solving his problems, forcing him to seek external legal help.

16. That since the date of termination of the workman, he has been unemployed despite his best efforts.

17. The list of V&S's customers reads "like the who's who of global textile business namely, Guess, J.C. Penny, BCBG, Vanity Fair, Debenhams, Mango, Next, Fusion, Impulse, Li & Fung and Triburg to name a few...almost all big international brands like American Eagle, Abercrombie & Fitch, BCBG, Calvin Klein, Gap, Guess, Liz Claiborne, Levis, Philip-Van-Heusen, TNF, Vanity Fair, DKNY, Mango, Next, Susan, Tom Tailor among others and all the major buying houses and agencies." The multinational clients of V&S International have codes of conduct for working conditions in their suppliers' factories. V&S has blatantly violated the codes of conduct.

18. For example, one of its clients, Phillips-Van Heusen, has long been a leader in the corporate responsibility and human rights field. The company has a Global Human Rights program for implementing the Company's "A Shared Commitment" Code of Conduct. PVH is also an active, committed member of the Fair Labor Association which created the first, industry-wide code of conduct and monitoring

system with the objective of fair treatment of garment workers around the world.

19. That another client, Marks & Spencers, is a well-known multinational company with strict codes of conduct for its suppliers. M&S states that "to ensure good standards of employment practices we base our sourcing decisions on a supplier's ability to meet our Global Sourcing Principles....Our Global Sourcing Principles are applied whenever we buy products and services. These Principles set down our requirements for suppliers to comply with all relevant local and national laws, particularly on: working hours and conditions, health & safety, rates of pay, terms of employment...." In addition, M&S expects suppliers "to improve working conditions in line with the more demanding standards promoted by the Ethical Trading Initiative (ETI), a collaborative group of companies, trade unions and human rights groups set up by the UK Government."

20. That another client, JC Penney, states its "deep commitment to legal compliance and ethical business...In the JCPenney Supplier Legal Compliance Program brochure, first published in 1996, we restate the basic principles that have always defined our mutual understanding of legal compliance and ethical business practices.

This current edition is a product of our continuing efforts to promote increasingly higher levels of compliance and vigilance on the part of our suppliers and their contractors.”

21. That the management has blatantly violated the OECD Multinational Guidelines that specify standards that OECD companies and their partners must adhere to. Buyers of V&S International's products fall within these guidelines. These guidelines require V&S International to engage in constructive negotiations with a view to reaching agreements on employment conditions, provide facilities to employee representatives, provide information for meaningful negotiations, promote tri-partite consultations (employers, employees, employees representatives), and observe standards of employment, industrial relations – not less than comparable employers in host country.

22. That the management certified as ISO 9001, which is an international standard for organizations that are certified to have achieved standards of quality that are recognized and respected throughout the world. These include many factors but those that concern this complaint are:

- 1) "Total quality management" which is a management approach that tries to achieve and sustain long-term organizational success by encouraging employee feedback and participation, respecting societal values and beliefs, and obeying governmental statutes and regulations.
 - 2) "Work environment" that include social, cultural, psychological, physical, and environmental conditions as well as supervisory practices.
23. That the termination of services of the workman aforesaid is wholly illegal, bad, unjust and malafide for the following amongst other

GROUNDS

- a) the management has practiced Unfair Labour Practice by 1) dismissing the workman in bad faith, 2) by disregarding the principles of natural justice, 3) by employing the workman as a casual worker, performing the same tasks as any permanent worker, with the object of depriving him of the privileges of permanent workmen.

- b) the management has not acted in a bona fide manner in terminating the workman without reason, notice, and compensation. This is in violation of Section 25F, G, and H of the Industrial Disputes Act, 1947.
- c) the management has continued the employment of workmen junior to the workman aforesaid, such as that of Shams Alam.
- d) The management has not paid the workman the Haryana government's rates for minimum wage for semi-skilled worker and not deposited Provident Fund or ESI.
- e) the management has not paid the workman double rate for the extensive overtime work he has done. He has worked more than two hours everyday as overtime. He has not been given even one day off in a week. These unfair circumstances can be compared to forced labour/bonded labour.
- f) the management has not paid the minimum statutory 8.33% bonus to the workman inspite of growing profits.

- g) the management did not pay the workman in a timely fashion, his basic pay or his overtime pay.
 - h) the management has not provided the workman with an appointment letter.
 - i) The management has not set up a Works Committee, as per Section 3 of Industrial Disputes Act, through which workers such as the workman can voice complaints.
 - j) The management has violated the laws of the land. It has violated international standards such as Codes of Conduct, OECD Guidelines, and ISO 9001 which require fair labour standards and adherence to local and national laws.
24. That a legal demand notice was served upon the management by Registered A/D post vide communication dated January 30, 2008 duly received in their office but no reply has been received and it is presumed that the demand has been rejected.

PRAYER

It is therefore, most respectfully prayed that conciliation proceedings may kindly be initiated into the dispute and the management be prevailed upon to reinstate the workman as a permanent worker at his old job, with continuity in service and be paid in full back wages since November 28, 2006 including the Haryana government's new rates for basic pay, double rate for overtime work (totalling Rs.117596 as shown in Annexure A), bonus at the rate of 8.33%, and food allowance for overnight stay and the management be also directed to set up a representative Works Committee, as per the rules of the Industrial Disputes Act, and provide adequate conditions for its functioning. The management may also be directed to disclose in full its financial status so that meaningful dialogue can take place around the issue of bonus. The management may also be directed to disclose the full list of its multinational clients, the length of relationships, and the volume of transactions so that workmen and their representatives can meaningfully ensure the management's history of compliance with clients' codes of conduct, failing which, the dispute be referred for adjudication to the appropriate government.

Shamsher Ansari
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