

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 27/Lab./AIL/T/2017,
Puducherry, dated 15th March 2017)

NOTIFICATION

Whereas, the Award in I. D.(T) No. 11/2014, dated, 7-2-2017 of the Industrial Tribunal-Cum-Labour Court, Puducherry in respect of the industrial dispute between Larsen & Toubro Employees Union, Puducherry against the management of Larsen & Toubro Limited, Mailam Road, Sedarapet, Puducherry over charter of demands has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-91, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

R.DJEACOMAR,

Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY**

Present :Thiru G. THANENDRAN, B.COM., M.L.,
Presiding Officer.

Tuesday, the 7th day of February 2017.

I.D. (T) No. 11/2014

The President, Larsen & Toubro
Employees Union,
Puducherry.

.. Petitioner

Versus

The Managing Director,
Larsen & Toubro Limited,
Puducherry.

.. Respondent

This industrial dispute coming on 18-1-2017 for final hearing before me in the presence of Thiru Durai Arumugam, Counsel for the petitioner and Thiruvalargal M. Vaikunth, R. Vikneshraj and R. Elamparudhi, Counsel for the respondent on record and subsequently, when the case was posted for

petitioner side evidence, the respondent being called absent and set-*ex parte*, upon hearing the petitioner and perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This industrial dispute arises out of the reference made by the Government of Puducherry, *vide* G.O. Rt. No.100/AIL/LAB/J/2014, dated 18-6-2014 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(i) Whether the industrial dispute raised by the Larsen & Toubro Employees Union against the management of M/s. Larsen & Toubro Limited, Mailam Road, Sedarapet, Puducherry over charter of demands such as showing discrimination in granting annual increment to the junior most workers attaining grade change earlier than the senior workers and non inclusion of statutory holidays for granting the annual increment, grade change, bonus, OTLS, *etc.*, are justified ? If justified, what relief they are entitled to ?

(ii) To compute the relief if any, awarded in terms of money if, it can be so computed ?

2. The facts giving rise to this industrial dispute as stood exposted from the claim petition runs thus:-

The petitioner stated that the respondent establishment is the Multi National Corporation involved in production of construction materials at about 70 places in all over India and about 25,000 employees are working in the respondent establishment and that the respondent management is one of its branches, running at Puducherry for the past many years and involved in production of tower rods and about 100 number of regular employees and thousand number of contract employees are working in the respondent management and that since the respondent management is adopting different yard stick/grade system in providing salary/wages to its employees, the junior most employees are getting more increment than senior most workers and therefore, misdeed arises to its members and that the respondent management should not treat the employees in equal manner and that the respondent management on par with the fixation of Scale of Pay to the employees and that there is uncertainty in amend of grade and insufficiency in calculation of continuity of service and hence, the petitioner union prays before this Court

to direct the respondent to take down the continuity of service, statutory holidays, cessation of work while calculation of continuity of service.

3. *Per contra*, traversing the averments the claim statement, the respondent filed the counter with the averments which runs thus:

The respondent denied all the allegations contained in the claim statement of the petitioner and stated that petitioner has no "*locus standi*" to question the grade system followed by the respondent management in granting salary/wages to its employees because the petitioner entered into 12(3) settlement with respondent management for fixing salary/wages to its members and the settlements was strictly obeyed by the respondent management and providing salary/wages, what it has been agreed in 12(3) settlement by both parties, every month to its employees/workers not even deducting any single pie from 12(3) settlement and that in order to motivate the employees/workers, who are giving more productivity, the respondent management following performance appraisal system and providing salary/wages in addition to salary/wages fixed/agreed in 12(3) settlement by evaluating their performance during relevant period and that the respondent management treat the workers/employees in a equal manner and that there is no discrimination and arbitrariness in providing salary/wages as alleged by the petitioner and hence, there is no violation of Articles 14 and 15 of the Constitution of India and there is no violation of the Doctrine of Equal pay for equal work and that how the continuity of service of the employees/workers would be calculated is set out in 12(3) settlement and prays this Court to dismiss the petition.

4. Despite of opportunity given for the respondent for cross examination of PW.1, the respondent called absent and no representation for respondent and he was set *ex parte*.

5. On the side of the petitioner, the petitioner was examined himself as PW.1 and Ex.P1 to Ex.P3 were marked.

6. *The point for determination is:*

Whether the petition can be allowed or not ?

7. Heard. It is the evidence of the petitioner that the respondent management has not treated the employees in equal manner and that the respondent management on par with the fixation of Scale of Pay to the employees and that the respondent management

showing discrimination in granting annual increment to the junior most workers attaining grade change earlier than the senior workers and non inclusion of statutory holidays for granting the annual increment, grade change, bonus, OTLS, *etc.*, In support of his evidence, he has exhibited copy of the letter sent by the union to the Labour Officer (Conciliation), Puducherry and the respondent as Ex.P1, Copy of the failure report submitted by the Labour Officer (Conciliation), Puducherry as Ex.P2 and copy of the list of disparity Basic Pay as Ex.P3.

8. On the other hand, though the respondent filed counter, he does not appear before this Court and subsequently, due to his absence, the respondent was set *ex parte*. The petitioner appeared before this Court and he was examined as PW.1 and marked Ex.P1 to Ex.P3. This Court carefully considered the evidence of PW.1 and the exhibits marked through him. On perusal of Ex.P2, failure report submitted by the Labour Officer (Conciliation), Puducherry which discloses that this dispute has been referred to this Court to decide over the charter of demands showing discrimination in granting annual increment to the junior most workers attaining grade change earlier than the senior workers and non inclusion of statutory holidays for granting the annual increment, grade change, bonus, OTLS, *etc.*, are justified or not and to compute the relief in terms of money and Ex.P3-list of disparity Basic Pay which discloses that there is some variation in the Basic Pay and some of the grade IV employees get more than the Grade III employees and that these evidences and documents would go to show that there is discrimination in granting annual increment to the workers and attaining grade change earlier than the senior workers and non-inclusion of statutory holidays for granting the annual increments, grade change, bonus, OTLS and that therefore, the petitioner is entitled for the order as prayed for.

9. In the result, the petition is allowed and the respondent is directed to granting annual increment without any discrimination to the employees and also directed to include statutory holidays for granting the annual increments, grade change, bonus and OTLS.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 07th day of February, 2017.

G. THANENDRAN,
Presiding Officer, Industrial Tribunal,
Puducherry.

List of petitioner's witness:

PW.1 — 18-1-2017 — Kolanjinathan

List of petitioner's exhibits:

Ex.P1 — Copy of the letter sent by the union to the Labour Officer (Conciliation), Puducherry and the respondent, dated 2-12-2011.

Ex.P2 — Copy of the failure report submitted by the Labour Officer (Conciliation), Puducherry, dated, 18-6-2014.

Ex.P3 — Copy of the list of disparity Basic Pay.

*List of respondent's witnesses: Nil**List of petitioner's exhibits: Nil*

G. THANENDRAN,
Presiding Officer, Industrial Tribunal,
Puducherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 28/Lab./AIL/T/2017,
Puducherry, dated 15th March 2017)

NOTIFICATION

Whereas, the Award in I.D(L).No.29/2013, dated 27-1-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Managing Director, Easun-MR Tap Changers (P) Limited Puducherry and its workman Thiru D. Rajasekar, Puducherry over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-91, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

R. DJEACOMAR,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY**

Present :Thiru G. THANENDRAN, B.COM., M.L.,
Presiding Officer,

Friday, the 27th day of January, 2017

I.D. (L) No. 29/2013

D. Rajasekar . . . Petitioner

Versus

The Managing Director,
M/s. Easun-MR Tap Changers (P) Limited
Puducherry. . . Respondent.

This industrial dispute coming on 25-1-2017 for final hearing before me in the presence of Thiru S. Venkatapathy, Counsel for the petitioner and Tvl. P. Balamurali and C. Chandramohan, Counsels for the respondent on record, when the case is posted for cross examination of WW.1, the respondent being called absent and set *ex parte*, upon hearing the petitioner and perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This industrial dispute has been referred as per the G.O. Rt. No. 82/AIL/Lab./J/2013, dated 29-5-2013 for adjudicating the following:-

(i) Whether the dispute raised by the petitioner Thiru D. Rajasekar against the management of M/s. Easun-MR Tap Changers (P) Limited, over his non-employment is justified or not? If not justified, what relief he is entitled?

(ii) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. The facts giving rise to this industrial dispute as stood exposed from the claim petition runs thus:-

The petitioner stated that he did Diploma in Electrical and Electronics Engineering and joined the service of the respondent company *i.e.*, M/s. Easun-MR Tap Changers (P) Limited as an employee in Quality Control Department on 17-6-2009 and he was not issued any orders towards his employment by the respondent management but, he was serving his service without any leave or remarks for the period of 3 years and six months right from the beginning of his employment at the service of the respondent management and the petitioner was working in the respondent management till, dated 31-10-2012, while being so, the respondent management stopped the petitioner from the service/employment on the ground

of service break for the period of 3 months in the year 2011 because of to resist the completion of the continuous service and also assured that the respondent management would reinstate the petitioner after the said break period of 3 months and after the said break of three months, the petitioner had again joined with his employment at the respondent management and the management in order to avert the petitioner's continuous service again gave a service break for a period of 15 days on 31-10-2012 and the same has been intimated to him at about 6.30 p.m., while he was working in the company on the aforesaid date and when the petitioner sought the reason for granting leave, the manager of the company Thiru Gurusankar had replied that due to lack of orders, the management is in a position to retrench some of the workers and he was also asked to find a new job by the management.

The petitioner further stated that he was granted ESI Card by the respondent management and he was contributing ESI and PF and he was working directly under the control of the respondent management and he had been serving the respondent management at the utmost satisfaction of the respondent management and there is no remarks at all against the petitioner so far and he was recruited by the respondent management directly and further, the respondent had exercised full control over the petitioner and the attendance register was maintained by the respondent management and the petitioner had worked not less than 25 days every month and the petitioner had worked even on all Sundays in a month and had done overtime work monthly 15 days.

The petitioner further stated that during the conciliation proceedings the respondent management has alleged that the petitioner was working under their contractors M/s. Servocraft HR solutions (P) Limited and engaged for supporting services during the period from June, 2010 to September, 2012 and further, the management belied that the petitioner had been irregular to duty, frequent absenteeism in spite of verbal warnings given to him and owing to the same he was sacked but, the management later in the conciliation proceedings reported that they are ready to provide employment in Chennai as there is no vacancy in Pondicherry and the management has taken different stand at the inspection and later they resiled from their earlier stands and all these thing shows that the management has indulged in an unfair labour practice as against the petitioner and there is no contractor like Servocraft HR solutions working in the respondent management.

The petitioner further stated that he have been offered employment by the respondent management directly as a regular employee after undergoing a thorough process of selection and interview and he was serving at the respondent management from 17-6-2009 to 31-10-2012 without any blemish or remarks at all and he was serving at the utmost satisfaction of the respondent management as a regular employee but, in order to escape from the continuity of service the respondent management purposely issued break for the period of 15 days on 31-10-2012 and that the petitioner had served more than 240 days in a year in the 3 1/2 years and though without any justice or reasons, the respondent management *sue moto* and blindly terminated the petitioner from the service which is absolutely against the labour laws as well as natural justice and therefore, the said alleged impugned order of the respondent managements against and violation of sec.25-F of Industrial Disputes Act, 1947.

The petitioner further stated that the petitioner had also approached before the Labour Officer-Conciliation at Puducherry on 24-12-2012 but, within the period 45 days there is no amicable settlement arrived and therefore, as per the Amended Act, the petitioner is constrained to file this petition before this Court for adjudication and prays before this Court to pass an order for directing the respondent management to reinstate the petitioner with full back wages, continuity of service and all other attendance benefits.

3. *Per contra*, traversing the averments the claim statement, the respondent filed the counter with the averments which runs thus:

The respondent denied all the allegations contained in the claim statement of the petitioner and stated that while the case was in the stage of conciliation it was found that the petitioner was working with one M/s. Servocraft HR solutions (P) Limited RF 4 Galilei Square: No.27/11. Lakshmi Street, Alagappa Nagar, Kilpauk, Chennai-10 (Regd. Office), a licenced contractor working for the respondent and the respondent had any sort of nexus with the petitioner directly and there is no master and servant relationship in between the respondent and the petitioner at any point of time and that the petitioner may arise his claim with his Employer namely M/s. Servocraft HR solutions (P) Limited and the petitioner claim with the respondent is not at all maintainable and the respondent is not the proper party either in law or on facts and the petitioner suppressed facts and the petitioner employed through the contractor namely M/s. Servocraft HR solutions (P) Limited and there was no relationship of employer and employee with the workers employed

through contractor and the petitioner being on them, there was no question of termination of his services and the petitioner has failed to produce any document to establish the relationship of master and servant, and the burden of proof of the same with the petitioner and the petitioner was employed as Office Assistant in loading work in the quality control Department, the work of loading and unloading was also being carried out by the contractor and the petitioner was employed through contractor for loading and unloading of materials was being done by the petitioner in the respondent establishment was entrusted to the petitioner through contractor and the petitioner has received the salary from the contractor and the labour supplied by the contractor will work under directions, supervision and control of the respondent but would not make the petitioner a direct employee of the respondent, if, the salary is paid by a contractor against the attendance maintained by the contractor, if, the right to regulate the employment is with the contractor and the ultimate supervision and control with the contractor and the petitioner has not eligible to claim anything from the respondent and that the attendance register of the petitioner maintained by the contractor, the work which was being done by the petitioner in the respondent establishment was carried out through contractor engaged by the establishment and that the petitioner mere sent an application for claim without produce any documents in supporting of his claim and the petitioner was employed through contractor and not in direct employee of the respondent establishment and that the petitioner has not come with clean hand and the claim of the petitioner against the respondent is liable to dismiss and the name of the contractor who was engaged by the respondent is the employer and prays this Court to dismiss the petition.

4. On cross examination of WW.1, the respondent called absent and no representation was given on behalf of respondent, hence, set *ex parte*.

5. On the side of the petitioner, the petitioner examined himself as WW.1 and marked Ex.W1 to Ex.W5.

6. *The point for determination is:*

Whether the petition can be allowed or not ?

7. Heard. It is the evidence of the petitioner that he joined service in the respondent company on 17-6-2009 as an employes in Quality Control Department and was working there for the period of three years and six months without any remarks from

17-6-2009 to till date 31-10-2012. Without giving any notice, the respondent management stopped him from service and asked him to go on leave for 3 months in the year 2011 and after the said break of three months, he had again joined with his employment at the respondent management and in order to avert his continuous service, the respondent management again gave him a service break of 15 days on 31-10-2012 and that he has got ESI Card and was contributing ESI and PF and he was working directly under the control of the management and had been in service to the utmost satisfaction of the respondent management and there is no remarks at all against him and that he was recruited by the respondent management directly and that they had exercised full control over him and that attendance register was maintained by the respondent management and to escape from the continuity of service, the respondent management purposely issued break and that he served more than 240 days in year in the 3 1/2 years with continuous employment and that therefore the respondent management *sue motto* and blindly terminated him from the service against the labour laws and as well as natural justice.

8. In support of his evidence he has exhibited copy of the letter submitted by the petitioner to the Labour Officer (Conciliation), Puducherry dated 24-12-2012 as Ex.W1 copy of the Notice of Enquiry, dated 28-1-2013 as Ex.W2, copy of the Notice of Enquiry, dated 13-2-2013 as Ex.W3, copy of the report given by Labour Officer to the Secretary to Government (Labour), Puducherry as Ex.W4 and copy of failure report submitted by the Labour officer (Conciliation) to the Secretary to Government (Labour), Puducherry as Ex.W5. These documents would go to show that the petitioner has served in the respondent management under the control of the respondent and the respondent has paid the salary to him and he was under the direct control of the respondent. On the other hand, though the respondent has filed the agitation stating that the petitioner was working with one M/s. Servoraft HR solutions (P) Limited RF 4 Galilei Square, No.27/11, Lakshmi Street, Alagappa Nagar, Kilpauk, Chennai-10 (Regd. Office), a licensed contractor working for the respondent and that the respondent had any sort of nexus with the petitioner directly and that there is no Master and Servant relationship in between the respondent and the petitioner at any point of time. However, the respondent has not let in any evidence or produced any document to show that M/s. Servoraft HR solutions (P) Limited is the employer of the petitioner.

9. Hence, from the oral and documentary evidence of the petitioner, it is clearly established by the petitioner that he was working with the respondent management for the period from in 17-6-2009 to 31-10-2012 with continuity of service and he was terminated without any proper notice under the 25F of the Industrial Disputes Act for retrenchment of the workmen. Without adopting any procedure, orally instructed the petitioner to stop his work and as such it can be held that the termination of the petitioner by the respondent is invalid and illegal and the same is liable to be set aside. As this Court has already held that the termination of the petitioner is invalid and illegal and the same is liable to be set aside, it is to be seen that whether the petitioner is entitled for the relief of reinstatement with continuity of service and back wages. The petitioner was found as workman and his work is an essential and therefore, the petitioner has to be given reinstatement. Hence, it can be held that the petitioner is entitled for an order of reinstatement with continuity of service.

10. In this case nothing is pleaded by the petitioners/claimants that they have not joined or worked in any other establishment or they did not have any income for their survival and that therefore, petitioner is not entitled for full back wages. However considering the facts and circumstances of the case, this Court finds that the petitioner was illegally terminated from his service by the respondent all of a sudden without giving any notice and hence he has approached before the Labour Conciliation Officer and subsequently before this Court for challenging the termination by the respondent. On the other hand, the respondent has not proved that the petitioner has earned income after his termination from service. In the above circumstances, this Court does not find any reasonable cause to grant full back wages to the petitioner and consequently, considering the other circumstances in this case, this Court is inclined to grant partial back wages of 30% to the petitioner till his reinstatement. Accordingly, this point is answered.

11. In the result, the petition is partly allowed and the petitioner is entitled for the reinstatement with continuity of service and 30% of back wages till his reinstatement.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the Open Court on this the 27th day of January, 2017.

G. THANENDRAN,
Presiding Officer, Industrial Tribunal,
Puducherry.

List of petitioners witness:

P.W.1—5-2-2016- D. Rajasekar

List of petitioner's exhibits:

Ex.W1—Copy of the letter submitted by the petitioner to the Labour Officer (Conciliation), Puducherry, dated 24-12-2012.

Ex.W2—Copy of the Notice of Enquiry, dated 28-1-2013

Ex.W3—Copy of the Notice of Enquiry, dated 13-2-2013

Ex.W4—Copy of the report given by Labour Officer to the Secretary to Government (Labour), Puducherry.

Ex.W5—Copy of the failure report submitted by the Labour Officer (Conciliation) to the Secretary to Government (Labour), Puducherry, dated 29-5-2013.

List of respondent's witnesses: Nil

List of respondent's exhibits : Nil

G. THANENDRAN,
Presiding Officer, Industrial Tribunal,
Puducherry.

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G. O. Rt. No. 29/Lab./AIL/T/2017,
Puducherry, dated 15th March 2017)

NOTIFICATION

Whereas, the Award in I.D.(L)No.28/2015, dated 30-1-2017 of the Labour Court, Puducherry in respect of the industrial dispute between Thiru N. Narayanasamy, Puducherry against the management of M/s. Poorvika Mobile World, Puducherry over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour), that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

R. DJEACOMAR,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY**

Present : Thiru G. THENDRAN, B.COM., M.L.,
Presiding Officer,

Monday, the 30th day of January 2017

I.D. (L) No. 28/2015

Narayanasamy, .. Petitioner
S/o. Nagappan

Versus

Poorvika Mobiles World Limited, .. Respondent.
Puducherry.

This industrial dispute coming on 12-1-2017 for final hearing before me in the presence of Thiru L. Rajendiran, Counsel for the petitioner and Thiru K. Kodeeswaran, Counsel for the respondent on record and subsequently, the respondent being called absent and set *ex parte*, upon hearing the petitioner and perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This industrial dispute has been referred as per the G.O. Rt. No. 52/ AIL/Lab./J /2015, dated 18-6-2015 for adjudicating the following:-

(i) Whether the dispute raised Thiru N. Narayanasamy against the management of M/s. Poorvika Mobile, World, Puducherry over his non-employment is justified ? If justified, what relief he is entitled to ?

(ii) Whether the claim of the petitioner for the reimbursement of medical expenses incurred by him for his treatment at PIMS, since he met with an accident during the course of employment and his claim of disablement compensation as per the Act, justified ? If justified, what relief he is entitled to ?

(iii) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. The facts giving rise to this industrial dispute as stood exposted from the claim petition runs thus:-

The petitioner stated that he was working under the respondent management *i.e.*, Poorvika Mobiles World Limited, at No. 181, Anna Salai, Puducherry from 24-7-2010 and as per instruction of the respondent management, the petitioner and along with his another employee attended the advertisement work at

Marakanam and after completing the work, while returning to Puducherry at Anumanthai the petitioner met with a road traffic accident during the course of employment on 16-6-2013 at about 2.00 p.m. and sustained serious spinal injury.

The petitioner further stated that immediately after the accident, the petitioner's family members contacted the respondent management and the management promised for the medical expenses and also assured to provide employment to the petitioner and also assured for the reimbursement of the medical expenses and asked the petitioner's father to admit the petitioner at the private hospital and hence, his family members admitted him at the PIMS Hospital for treatment and undergone surgery as inpatient for more than 15 days and after surgery he was bedridden and took treatment as outpatient for nearly more than 4 months and his family members spent several lakhs of Rupees for his medical treatment.

The petitioner further stated that he approached the respondent management to provide employment after the medical checkup and as the Doctors certified him fitness to perform his duty, the management not allowed him to enter the mobile shop and also refused to provide employment and medical expenses.

The petitioner further stated that there is no E.S.I coverage and the accident was occurred only during the office hours and the management registered in the E.S.I only in the month of February 2014 and only in the month of February, the petitioner submitted his family photo and the E.S.I temporary Identity Certificate provided only on 21-3-2014. Hence, the petitioner firmly stood on his hand that there is no E.S.I coverage at the time of accident and therefore, he has no right to benefit under E.S.I Act and medical treatment.

The petitioner further stated that he was employed in the respondent management from the beginning of the establishment and he rendered his service sincerely, honestly and up to the satisfaction of the management and dedicated his service for the growth of the management and further, he sustained the employment, injury only at the time of advertisement work at Marakanam and therefore, the petitioner requested to provide employment with all legal benefits and also to provide medical expenses incurred by his family member at PIMS Hospital and also disable compensation as applicable under the Act. The petitioner denied the benefits from the E.S.I., because the respondent management not paid their

contribution properly to the E.S.I., therefore, at the time of accident there is no coverage under the E.S.I., medical benefit under the said Act.

The petitioner further stated that the management eventhough assured to provide the employment during hospitalization of the petitioner and refused to provide employment when he approached for employment and compensation, therefore, he raised an industrial dispute before the Labour Officer, Conciliation, Puducherry *vide* representation, dated 13-3-2014 and 11-7-2014 and during the conciliation there is no representation from the respondent management inspite of repeated enquiry notices. As there is no cooperation on the part of the management, hence, the conciliation proceedings are ended in failure and the matter was referred to this Court for proper adjudication. Hence, the petitioner prays before this Court to pass an order to direct the respondent management to reinstate the petitioner with full back wages, continuity of service and all other attendance benefits and to direct the respondent management to pay the medical expenses and lose of income during the treatment time for a sum of ₹5,00,000 and to award the cost of this petition.

3. Though the Counsel for the respondent filed Vakalat, despite several opportunities, no counter was filed on behalf of the respondent since the respondent remained *ex parte*.

4. In the course of enquiry, the petitioner himself examined as PW.1 and Ex.P1 to Ex.P9 were marked.

5. *The point for determination is:*

Whether the petition can be allowed? or not?

6. Heard. It is the evidence of the petitioner that he was working in the respondent establishment from 24-4-2010 and in the course of employment, while on the return to Puducherry from Marakanam, after completing the advertisement work, he met with a road accident at Anumanthai on 16-6-2013 at 2.00 p.m., and sustained serious spinal injuries and the petitioner was admitted at the private PIMS Hospital and that the respondent management promised to pay medical expenses and also assured to provide employment and that he has undergone surgery as inpatient for more than 15 days and after surgery he was bedridden and taking treatment as outpatient nearly for more than 4 months, since there is no E.S.I., coverage at the time of accident, he was taken treatment at private PIMS Hospital and spent several lakhs of rupees for his medical expenses and after that while he approached

the respondent management to provide employment after that Doctors certified him as fit to perform his duty but, the respondent not allowed him to enter the mobile shop and refused to pay the medical expenses and the respondent management refused to provide employment with all legal benefits and also to provide medical expenses incurred by his family members and also refused to pay the compensation for the disablement under the Act and that the injury was sustained during the course of employment from the accident and that therefore, he approached the Labour Officer to raise the industrial dispute *vide* representation, dated 13-3-2014 and 14-7-2014 and during the course of conciliation there is no representation was made by the respondent management and that therefore, the conciliation proceedings was ended in failure and the case was referred to this Court for proper adjudication.

7. In support of his case, the petitioner PW.1 exhibited Conciliation Failure Report as Ex.P1, Reference letter as Ex.P2, Discharge summary issued by PIMS Hospital as Ex.P3, Payment voucher issued by respondent as Ex.P4, E.S.I., Temporary Identity Certificate as Ex.P5, Appointment letter issued by respondent as Ex.P6, PIMS Hospital medical records on various dates as Ex.P7, PIMS Hospital medical bills on various dates as Ex.P8, Identity Card issued by respondent as Ex.P9. These documents would go to show that the petitioner was working in the respondent concern and he met with an accident and was taken treatment on PIMS Hospital, since the respondent has not provide employment, he approached the Labour Officer for conciliation and on failure, the case was referred to this Court for disposal.

8. On the other hand, though the respondent Counsel filed Vakalat for respondent, he does not file any counter and subsequently due to his absence, the respondent was set *ex parte*. From the *ex parte* evidence, the petitioner has established his case that he was working in the respondent concern and he met with an accident and was taken treatment on PIMS Hospital, since the respondent has not provide employment, he approached the Labour Officer for conciliation and hence, he is entitled for the Award as prayed for with costs.

9. In the result, the petition is allowed and the respondent is directed to reinstate the petitioner with full back wages, continuity of service and all other benefits and also directed the respondent to pay the medical expenses of ₹5,00,000 as claimed by the petitioner with costs.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the Open Court on this the 30th day January, 2017.

G. THANENDRAN,
Presiding Officer, Industrial Tribunal,
Puducherry.

List of petitioner's witness:

P.W.1— 12-1-2017 Narayanasamy

List of petitioner's exhibits:

Ex.P1 — Conciliation Failure Report, dated 5-12-2014.

Ex.P2 — Reference letter, dated 18-6-2015.

Ex.P3 — Discharge summary issued by PIMS hospital, dated 24-6-2013.

Ex.P4 — Payment voucher issued by respondent, dated 4-1-2014.

Ex.P5 — ESI Temporary Identity Certificate, dated 31-3-2014.

Ex.P6 — Appointment letter issued by respondent, dated 23-7-2010.

Ex.P7 — PIMS Hospital medical records on various dates.

Ex.P8 — PIMS Hospital medical bills on various dates.

Ex.P9 — Identity Card issued by respondent

List of respondent's witnesses: Nil

List of respondent's exhibits: Nil

G. THANENDRAN,
Presiding Officer, Industrial Tribunal,
Puducherry.

**GOVERNMENT OF PUDUCHERRY
CHIEF SECRETARIAT (HEALTH)**

(G.O. Ms. No. 14, Puducherry, dated 13th March 2017)

NOTIFICATION

Whereas, a Memorandum of Understanding (MoU) was made and entered into at Puducherry on the 13th day of March, 2017 by and between the President of India, represented by Dr. K.V. Raman, son of Khareedhi Venkatesaiah, Director of Health and Family Welfare Services, Government of Puducherry and Ministry of Health and Family Welfare (MoHFW), Government of India.

2. And whereas, a capacity building project for Trauma Care facilities in Indira Gandhi Government General Hospital and Postgraduate Institute, Puducherry (IGGGH & PGI) has been established as per the approval given in the 6th Meeting of the Screening Committee for Trauma with Burn Scheme.

3. And whereas, necessary MoU has been entered into between the Government of India and Government of Puducherry and therefore, in order to implement the Capacity Building Project for Trauma Care facilities, a Monitoring Committee has been set up with the following composition:

1. Secretary to Government (Health), . . Chairman
Puducherry
2. Director of Health and Family . . Member
Welfare Services, Puducherry
3. The RD, Health and Family Welfare, . . Member
Directorate of G.H.S.(representative
from the Government of India)
4. Medical Superintendent, . . Member
IGGGH & PGI, Puducherry
5. Executive Engineer (Buildings), . . Member
P.W.D., Puducherry
6. The Resident Medical Officer, . . Member-
IGGGH & PGI, Puducherry Secretary.

4. And whereas, the implementation of the progress of the scheme shall be reviewed at the Union territory of Puducherry level on a quarterly basis. For this purpose, the above constituted Monitoring Committee set up by the Union territory of Puducherry will supervise the above Scheme.

5. And whereas, the other terms and conditions of the Scheme has been elaborately mentioned in the MoU.

6. And whereas, quarterly progress report (physical and financial) will be submitted as per the guidelines.

7. And whereas, Directorate-General of Health Services, Ministry of Health and Family Welfare, will also review the progress of implementation of the project from time to time at its own level.

8. Now, therefore, the Lieutenant-Governor of Puducherry, is pleased to approve the constitution of the Monitoring Committee under the capacity building for Trauma Care facilities in IGGGH & PGI, Puducherry and to implement the same as per MoU signed between Government of India and Government of Puducherry.

9. This issues with the concurrence of the Finance Department *vide* I.D. No. 3204/PRO/F4/A1/16, dated 11-3-2017.

(By Order of the Lieutenant-Governor)

V. JEEVA,
Under Secretary to Government (Health).