



புதுச்சேரி மாநில அரசிதழ்

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அதிகாரம் பெற்ற வெளியீடு

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 41/Lab./AIL/T/2017,
Puducherry, dated 6th April 2017)

NOTIFICATION

Whereas, the Award in I.D.(L)No. 3/2014, dated 24-2-2017 of the Labour Court, Puducherry in respect of the industrial dispute between Thiru S. Madhiazhagan, Karaikal against the management of M/s. Alpha Facility Services Private Limited, Chennai and Marg Karaikal Port Private Limited,, Karaikal over reinstatement with backwages 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 the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

E. VALLAVAN,
Labour Commissioner-cum-
Additional 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 24th day of February, 2017

I.D.(L) No. 3/2014

S. Madhiazhagan,
S/o. Sambandam,
No. 15, Pallivasal Street,
Kheezhavanjoor,
Karaikal

.. Petitioner/
Workman

Vs.

1. M/s. Alpha Facility Services Private Limited,
Rep. by its Managing Director,
Anjali Towers, Nos. 392 and 393,
Rajiv Gandhi Salai, Kottivakkam,
Chennai-600 041.

2. The Marg Karaikal Port Private Limited,
Rep. by its Managing Director,
Kheezhavanjoor Village,
T.R. Pattinam,
P.B. No. 33, Karaikal-609 606. .. Respondent/
Management.

This industrial dispute coming on this day before me or hearing in the presence of Thiruvalargal P.R. Thiruneelakandan and A. Mithun Chakkaravarthy, Counsels for the petitioner, Thiru S. Karthikeyan, Counsels for the 1st respondent, Thiruvalargal K. Babu and C. Arivajagane, Counsels for the 2nd respondent, upon perusing the case records, 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. 184/AIL/Lab./J/2013, dated 27-12-2013 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(i) Whether the dispute raised by the petitioner over reinstatement with backwages against the management of M/s. Alpha Facility Services Private Limited, Chennai and Marg Karaikal Port Private Limited, Karaikal is justified or not ?

(ii) 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 petitioner in his claim statement has stated as follows :

The respondents appointed the petitioner in the Marg Karaikal Port on 1-2-2010 as a workman on a monthly salary of ₹ 5,982 and he was regularized on permanent basis in the year 2010 and while he was working as Diesel Pump House Operator, he was threatened by the respondents to vacate the shop owned by his wife outside the company premises and due to the same, the respondent requested his wife to do so but his wife did not pay any heed to his request and as a result he was thrown out of his job on 13-7-2012 without any prior notice or valid reason and hence, the petitioner raised a dispute before the Labour Officer, Karaikal on 27-7-2012 prayed for reinstatement in his service with backwage and continuity of service and all other attendant benefits and during the course of conciliation the respondent offered fresh employment without backwages and continuity of

service. The petitioner demanded-reinstatement with backwage, continuity of service which was not conceded by the respondent hence, the conciliation ended in failure and that the termination of petitioner's service is arbitrary, illegal and against the principles of natural justice, violation of model standing order and it is a clear case of victimization and it is an act of unfair labour practice committed by the respondent against the petitioner and further, the termination of petitioner's service is contravention of section 25 F of the Industrial Disputes Act and the petitioner has not been gainfully employed in any establishment since he was illegally terminated from service and hence the petitioner is entitled to reinstatement with continuity of service with full backwage and all other attendant benefits.

3. The 1st respondent in the counter has stated as follows :

The 1st respondent denied all the averments and allegations made in the claim statement as false and concocted except those that are specifically admitted in the counter filed by 1st respondent. The petitioner was previously/originally employed by one of the erstwhile man power contractor of the second respondent namely M/s. Heiligen (Worldwide) Services Limited and the petitioner was deployed by the said M/s. Heiligen (Worldwide) Services Limited to work at the second respondent's site and that when they had taken the undertaking of the said M/s. Heiligen (Worldwide) Services Limited, the 1st respondent herein absorbed the petitioner herein as its employee with the continuity of service and put him in the same designation as "Diesel Pump Operator" in February, 2012 and that the petitioner also accepted the job on the terms and conditions referred to in the respective letter, dated 1-2-2012 and continued to work under this 1st respondent till 12-7-2012 and as such the petitioner never had the employer-employee relationship with the second respondent at any point of time and that the petitioner's employment with regard to his service conditions were only under the control of the 1st respondent and not the 2nd respondent and that the petitioner was not thrown out of his job by this respondent at any point of time much less on and from 13-7-2012 and that the petitioner had run a shop in the Port premises of the 2nd respondent without any licence or any permission to run the said shop besides his employment under the 1st respondent in the Port and the said fact was

informed by the 2nd respondent to the 1st respondent to take necessary action and that on receipt of the said information the 1st respondent had caused a letter to the petitioner legally on 12-7-2012 directing to vacate the said shop run by the petitioner since running of the shop at the place by the petitioner is not as per law and further it is an act of double employment and that the 1st respondent never threatened the petitioner for anything and also not thrown out the petitioner from employment and that the petitioner alone did not turn for duty at the site on and from 13-7-2012 onwards and also not submitted any explanation towards the same to the 1st respondent and that the petitioner had also not replied to its letter, dated 12-7-2012 and that in such background only the petitioner has with ulterior motive resorted to raise a wrong dispute before the Conciliation Forum alleging that he was thrown out of job and these were came to the knowledge of the 1st respondent on receipt of the notice from the Conciliation Officer and that there is no truth in the dispute raised by the petitioner before the Conciliation Forum and that it is a clear attempt of blackmailing the respondents by covering up of the petitioner's illegal running shop at the Port premises and that of his double employment and that the petitioner who has raised alleged dispute of non-employment and seeking re-instatement with backwages, himself had declined to resume for duty and demanded for settlement up to his retirement age before the conciliation proceedings and that the said act of the petitioner certainly reveals his ulterior motive and that the petitioner is gainfully employed by running a shop.

4. The 2nd respondent in the counter has stated as follows :

The 2nd respondent denied all allegations and averments made by the petitioner in his claim statement as false except those that are specifically admitted in the counter filed by the 2nd respondent. The petitioner is not a workman of/under 2nd respondent and there does not exist any employer-employee relationship between the petitioner and 2nd respondent and the petitioner was not employed by 2nd respondent at any point of time and that the petitioner was an employee of the 1st respondent and as such the petitioner has no *locus standi* to raise any conciliation or industrial dispute as

against 2nd respondent and that the petitioner is willfully and wantonly stated that respondents appointed him the 2nd respondent Marg Karaikal Port on 1-2-2010 as a workman on a monthly salary of ₹ 5,982 and that he was regularized on permanent basis in the year 2010, so as to harvest illegal gain from 2nd respondent and that the petitioner is illegally and unauthorizedly running a shop at the Port land outside the Port entrance gate without any legal sanction from any of the Government authority and that necessary steps are being taken by 2nd respondent and that the petitioner is gainfully employed by running a shop at the port land till date and that the petitioner in his claim statement with illegal and hidden motive has mentioned at all places as "respondents" by not specifying the name of the respondent with whom he avers and alleges and that the petitioner concealed all the material and relevant facts and made false and vexatious allegations against the 2nd respondent and that the 2nd respondent had not been involved in any sort of unfair labour practice at any point of time.

5. In the course of enquiry, no oral or documentary evidence has been let in by either sides. Both sides arguments heard.

6. Records perused. This reference has been made by the Government to decide the dispute raised by the petitioner over reinstatement with backwages against the management of the respondents private limited company is justified or not and for other reliefs. However, today the memo has been filed by the petitioner stating that there was a settlement reached between the petitioner and the respondents under section 18(1) of the Industrial Disputes Act, 1947 on 6-2-2017 and the copy of the settlement arrived between the parties is also enclosed with the memo. and that therefore, the petitioner has also stated in the memo that he is not pressing the claim. In view of the memo filed by the petitioner stating that the matter was settled between the parties herein out of Court and that not pressing the claim, the Tribunal is of the considered view that the reference is to be closed and accordingly the same is closed.

7. In the result, the reference is closed in view of the memo filed by the petitioner stating that the matter is settled out of Court and not pressing the case.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the Open Court on this the 24th day of February, 2017.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

புதுச்சேரி அரசு

இந்து சமய நிறுவனங்கள் மற்றும் வக்ஃபு துறை

(அரசு ஆணை பலவகை எண் 61/இசரி./கோ.4/2017,

புதுச்சேரி, நாள் 2017 (வரு) மார்ச் மீ 29 உ.)

ஆணை

புதுச்சேரி மாநிலம், அரியாங்குப்பம் கொம்புன், அரியாங்குப்பம் அருள்மிகு மாரியம்மன், பிள்ளையார் மற்றும் திரௌபதையம்மன் தேவஸ்தானம் அரசு ஆணை பலவகை எண் 35/இசரி./கோ.4/2014, நாள் 18-2-2014-ன் மூலம் குறிப்பிடப்பட்டுள்ள அரசு ஆணை மூலம் நியமிக்கப்பட்ட அறங்காவலர் வாரியத்தால் நிர்வகிக்கப்பட்டு வருகிறது.

2. இந்நிலையில், மேற்கூறிய அறங்காவலர் வாரியத்திற்கு உறுதுணையாக செயல்பட ஒரு நிர்வாக அதிகாரியை நியமனம் செய்திட அரசால் கருதப்படுகிறது.

3. எனவே, 1972-ஆம் ஆண்டு புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம், பிரிவு 9(1)-ன் கீழ் வழங்கப்பட்டுள்ள அதிகாரங்களைச் செலுத்தி, புதுச்சேரி, திருக்கனூர் காவல்நிலையத்தில் சிறப்பு துணை உதவி ஆய்வாளராக பணிபுரியும் திரு. மா. வரதப்பன், த/பெ. மாணிக்கசாமி அவர்களை, அரியாங்குப்பம், அருள்மிகு மாரியம்மன், பிள்ளையார் மற்றும் திரௌபதையம்மன் தேவஸ்தானத்திற்கு சம்பளம் பெறா நிர்வாக அதிகாரியாக அரசால் இதன்மூலம் நியமனம் செய்யப்படுகிறார்.

4. திரு. மா. வரதப்பன், அவர்கள் புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம் 1972 மேற்கூறிய தேவஸ்தானத்தின் கௌரவ நிர்வாக அதிகாரிக்குண்டான பொறுப்புக்களை உடனடியாக ஏற்றுக்கொண்டு, அரசுத் துறையில் தான் வகிக்கும் பதவிக்குக் கூடுதலாகவும், புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம் 1972 மற்றும் அதன் கீழ் உருவாக்கப்பட்டுள்ள விதிகளுக்கு இணங்கவும், மேற்படி தேவஸ்தானத்தின் நிர்வாகத்தை கவனித்துவரவேண்டும்.

(துணைநிலை ஆளுநரின் ஆணைப்படி)

பா. தில்லைவேல்,
அரசு சார்புச் செயலர் (கோயில்கள்).