



புதுச்சேரி மாநில அரசிதழ்

La Gazette de L'État de Poudouchéry The Gazette of Puducherry

அதிகாரம் பெற்ற வெளியீடு

Publiée par Autorité

Published by Authority

விலை : ₹ 18-00

Prix : ₹ 18-00

Price : ₹ 18-00

எண்	புதுச்சேரி	செவ்வாய்க்கிழமை	2018 ஆம்	ஏப்ரல் மீ	24
No.	17 Poudouchéry	Mardi	24	Avril	2018 (4 Vaisakha 1940)
No.	Puducherry	Tuesday	24th	April	2018

பொருளடக்கம்

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 32/Lab./AIL/T/2018,
Puducherry, dated 8th March 2018)

NOTIFICATION

Whereas, an Award in I.D (T) No. 03/2014, dated 08-01-2018 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of the Industrial Dispute between the management of M/s. Vinayaga Mission Medical College and Hospital, Karaikal, against the petitioner union Vinayaga Mission Medical College 85 Hospital Ozhiyargal Sangam over non-payment of Bonus 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)

S. MOUTTOULINGAM,

Under Secretary to Government, (Labour).

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

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

Monday, the 08th day of January, 2018

I.D. (T) No. 03/2014

N. Ramar,
Rep. the V.M.M.C. and Hospital
Ozhiyargal Sangam,
No. 42, Stalin Nagar,
Karaikal. . . Petitioner

Versus

The Managing Director,
M/s. Vinayaga Mission Medical
College and Hospital,
Kezhakasakudimedu,
Kottucherry (PO)
Karaikal. . . Respondent

This Industrial Dispute coming on 17-11-2017 before me for final hearing in the presence of Thiru N. Ramar, Representative for the petitioner and Thiru R. Ilancheliyan, Advocate for the respondent, upon hearing both sides, upon 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 by the Government as per the G.O. Rt. No. 70/AIL/Lab./J/2014, dated 21-04-2014 for adjudicating the following:-

(i) Whether the industrial dispute raised by the petitioner union Vinayaga Mission Medical College and Hospital Ozhiyargal Sangam, against the management M/s. Vinayaga Mission Medical College and Hospital, Karaikal, over non-payment of Bonus to its employees is justified?

(ii) If justified, what relief they are entitled to?

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

2. *The averments in the claim statement of the petitioner, in brief, are as follows:*

The petitioner union stated that the respondent management had not given bonus from its inception till date to its employees. Hence, the petitioner union raised the industrial dispute on 01-08-2013 for 20% bonus stating that for many years the respondent management had not given bonus to the employees, which is against the Payment of Bonus Act and therefore, the petitioner seeks for 20% bonus to all workers. The petitioner union relied upon the Judgments reported in Bangalore Water Supply Vs. Rajappa (AIR 1978 SC 548) and Christian Medical College Vs. Government of India (1983 II LLJ) of the Hon'ble Supreme Court and stated that in view of the observation made in the abovesaid Judgments the respondent management is purely an industry as per law and is highly a profit oriented concern and thereby the respondent management is responsible to pay 20% bonus to all its employees.

3. *The brief averments in the counter filed by the respondent are as follows:*

The respondent management denied the averments made by the petitioner in the claim statement except those that are specifically admitted and stated that the dispute raised by one Ramar in the guise of a trade union and the said Ramar is not an employee employed

in the respondent institution. He is an purely an outsider and he has no any legal right to raise dispute against the respondent under the Industrial Disputes Act and the rules made thereunder. Though the Act envisages representation by an outsider under section 36 of the Act, it does not contemplate any authority to raise any dispute against the employer. The petitioner of this case is neither a workman nor has been duly authorized by the members of the alleged union who are necessarily to be the employees in the respondent's institution and therefore, the petitioner does not have any locus standi either to represent or to raise this dispute and the petition is liable to be dismissed in limine and further stated that the Payment of Bonus Act, 1956 is applicable to every factory and every other establishment wherein 20 or more persons are employed. Though few State Governments have separate provisions, reference will have to be made to the respective State Legislature. However, section 32 of the Payment of Bonus Act has specific provisions providing for non application of the Act to certain classes of employees. section (v) (b) and (c) provide for non applicability of the Act to the Universities and Educational Institutions including Hospitals, Chambers of Commerce and Social Welfare Institutions *etc.*, section 32(v) (b) categorically states that employees employed by Universities and other educational institutions are not covered under the provisions of the Payment of Bonus Act, 1965 section 32(v) (c) stated that employees employed by institutions (including Hospitals, Chambers of Commerce and Social Welfare Institutions) establishment not for the purposes of profit, are exempted from payment of Bonus Act, 1965. The provisions of the payment of Bonus Act, 1965 make it clear that as per section (v) (b) and 32(v) (b) of the Act, employees of Universities and other Educational Institutions and Hospitals, establishments not with the aim of earning profit are not be covered under this Act. The main consideration of section 32(v) (c) is for institutions/establishments, functioning not for the purposes of profit. As far as the claim on the basis of Bangalore Water Supply Vs. Rayappa and Christian Medical College Hospital cases are concerned the Bangalore water supply case has given wide connotation to the definitions of workmen and nothing has any relevance to the claim for the bonus. However, in the matter of Christian Medical College Hospital the grounds on which the provisions of the payment of Bonus Act, 1965 was made applicable was entirely difference. The Hon'ble Madras High Court in its order in the Writ Appeal No. 642/2002 has not declared suo motto that all the Medical College and

Hospital are to be covered under the payment of Bonus Act, 1965. It was decided in the case of Christian Medical College that the employees were covered under the Payment of Bonus Act on the basis of different grounds that the hospital was run earlier to the beginning of the College. The respondent is an institution imparting medical education under the norms prescribed by the Medical Council of India. Therefore, the Christian Medical College case cannot be equated with the claim of the petitioner union.

4. In the course of enquiry on the side of the petitioner PW1 was examined and Ex.P1 to Ex.P5 were marked and no evidence has been let in and no documents has been marked on the side of the respondent.

5. *The point for consideration is:*

Whether the dispute raised by the petitioner union against the respondent management over non-payment of Bonus to its employees is justified or not and if justified what is the relief entitled to them?

6. Both sides are heard. The pleadings of the parties, the evidence let in and the exhibits marked on the side of the petitioner are carefully considered. On both sides, written arguments were filed and the same was carefully considered.

7. In order to prove the case the petitioner union has examined PW1 and it is the evidence of PW1 that the members of the petitioner union are working at the respondent establishment which is a Medical College-cum-Hospital functioning at Karaikal wherein, 550 students and 20 medical higher studying students are studying and that the management also conducting the Nursing College by collecting fees from them and also conducting Hostel and 125 Professors and 135 Doctors are working at the respondent establishment and that the management has paid ₹ 7,000 for regular employees and ₹ 1,000 for daily rates employees as *exgratia* and has not paid bonus which cannot be tolerable and it is the further evidence of PW1 that he is the Honourary President of the union and he is having right to raise the industrial dispute under section 36 of the industrial dispute and that the contention of the respondent management that the Honourary President cannot represent the petitioner union cannot be accepted and that the another contention of the respondent management that as per section 32(V) (b) of the Bonus Act employees of Universities, Educational Institutions and Hospital are not entitled

for bonus are not acceptable and that the Hon'ble Supreme Court has declared that all the workers of the educational institutions are entitled for bonus since educational institutions are also an industry and that the Hon'ble Supreme Court also has directed to pay bonus to the Christian Medical College workers and that therefore, educational institutions are also not exempted under section 32(v) (b) of the Act after the Judgment of the Hon'ble Supreme Court and that therefore, the industrial dispute raised by the petitioner union over the non-payment of bonus to the members of the petitioner union for 20% of bonus is to be declared as justified.

8. In support of their contention the petitioner union has exhibited Ex.P1 to Ex.P5. The copy of the dispute raised by the petitioner union before the Labour Officer (Conciliation), dated 01-08-2013 as Ex.P1. The copy of the letter given by the respondent to the Labour Officer (Conciliation), dated 26-08-2013 as Ex.P2. The copy of the letter given by the respondent to the Labour Officer (Conciliation), dated 11-10-2013 as Ex.P3. The copy of conciliation failure report, dated 07-02-2014 as Ex.P4. The copy of the reference sent by the Government on 21-04-2014 as Ex.P5. These documents would go to show that the Honourary President of the union raised the industrial dispute before the Labour Officer (Conciliation) on 01-08-2013 for which the respondent has sent a reply to the Conciliation Officer that the educational institutions are exempted to pay the bonus to the workers and that therefore, the conciliation was failed and the conciliation failure report was submitted by the Conciliation Officer on 07-02-2014 and the same was referred by the Government for adjudication on 21-04-2014 to this Tribunal.

9. From the evidence of the petitioner union it is clear that it is the case of the petitioner union that the person, the Honourary President of the petitioner union can raise the industrial dispute on behalf of the petitioner union under section 36(a) of the Act and Educational Institutions and Medical Colleges are declared as industry by the Hon'ble Supreme Court and that therefore the Educational Institutions and Medical Colleges are having liability to pay the bonus to its workers. In support of their contention the representative of the petitioner union PW1 has stated in his evidence as well as in the argument that the Hon'ble Supreme Court of India in Bangalore Water Supply and Sewerage board Vs. Rajappa and others case has held that the workers of the educational institutions and Medical College Hospitals are entitled for bonus as the medical college and Educational Institutions are also come under the definition of industry.

10. On the other hand, to prove their case the respondent has not examined any witnesses on their sides and has not exhibited any documents in support of their contention. From the pleadings of the respondent management it is clear that it is the first contention of the respondent management that Ramar who has raised the industrial dispute before the Conciliation Officer in the name of trade union has no *locus standi* since the said Ramar is not a employee working under the respondent establishment and he is an outsider and he does not have any legal right to raise the industrial dispute against the respondent management and that the said Ramar has not been authorized by the members of the petitioner union to raise the dispute. But, the representative of the petitioner union PW1 has stated in his evidence that he is the Honourary President of the petitioner union and he is an office bearer of the trade union and he is having *locus standi* to raise the industrial dispute against the respondent establishment.

11. On this aspect evidence and documents are carefully considered. It is learnt from Ex.P1 that the representative of the petitioner union Ramar has raised the industrial dispute even before the Conciliation Officer stating that he is the Honourary President of the union in the letter pad of the union and the Conciliation Officer also has acted upon the said application of the V.M.M.C and Hospital Ozhiyargal sangam. Further, the failure report which is exhibited as Ex.P3 also would reveal the fact that industrial dispute was raised against the respondent management for non payment of bonus to the employees of the respondent establishment under Ex.P1. The respondent management has not disputed before the Conciliation Officer that the person who has raised the industrial dispute is not having *locus standi* to raise the same as he was not authorized by the union and the management was silent before the conciliation regarding the locus standi to represent the petitioner union while industrial dispute was pending. Further, it is not disputed by the respondent management that Ramar is not the Honourary President of the petitioner union. The Honourary President also is the office bearer of the trader union and any one of the office executive of the trade union can raise the industrial dispute before the Conciliation Officer and that therefore the contention raised by the respondent management is not sustainable.

12. It is the another contention of the respondent management that the provisions of the Payment of Bonus Act, 1965 makes it clear that as per sec.32(v) (b) and 32(v) (c) of the Act, employees of the Universities and other Educational Institutions and

Hospitals, establishments not with the aim of earning profit are not to be covered under the Act. On this Aspect the provision of the Payment of Bonus Act are carefully considered which runs as follows:

“....32. Act not to apply to certain classes of employees. - Nothing in this Act shall apply to -

(i) 1[****] employees employed by the Life Insurance Corporation of India;

(ii) seamen as defined in Clause (42) of Section 3 of the Merchant Shipping Act, 1958 (44 of 1958);

(iii) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), and employed by registered or listed employees;

(iv) employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;

(v) employees employed by -

(a) the Indian Red Cross Society or any other institution of a like nature (including its branches);

(b) Universities and other Educational Institutions;

(c) institutions (including Hospitals, Chamber of Commerce and Social Welfare Institutions) established not for purposes of profit;

From the above provision it is clear that Universities and other educational institutions which are not established for the purpose of profit alone are exempted to pay bonus to their employees.

13. Further the learned representative of the petitioner has also relied upon the Judgment reported in (1978) 2 SCC 213, wherein the Hon'ble Supreme Court has held that,

“.....(1) ‘Industry’ as deined in the sub-section has a wide import.

(a) Where there is (i) systematic activity, (ii) organized by cooperation between employer and employee (the direct and substantial element is chimerical; and (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but, inclusive of material things or services geared to celestial bliss), *prima facie*, there is an industry in the enterprise.

(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If, the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

(2) Although the sub-section uses the words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself.

(a) ‘Undertaking’ must have a contextual and associated meaning as explained in Banerji’s case; so also service, calling and the like. Hence all organized activity possessing the triple elements of systematic activity, organized co-operation between employer and employee and production and distribution of goods and services calculated to satisfy human wants and wishes, although not trade or business. This takes into the fold of industry, undertakings, callings, services and adventures “analogous to the carrying on of trade or business”. All features other than the methodology of carrying on the activity, namely, in organizing the cooperation between employer-employee may be dissimilar but, it does not matter if, on the employment terms there is analogy.”

and further the learned Counsel for the petitioner also has relied upon the Judgment reported in (1987) 4 SCC 691 wherein, the Hon'ble Supreme Court has held that,

“.....Having regard to the right of the minorities guaranteed under Article 30(1) and the necessary for having a general law which regulates the relationship between employers and workmen and after balancing the two interests it must be held that sections 9-A, 10, 11-A, 12 and 33 of the Industrial Disputes Act are applicable to the minority educational institutions like the Christian Medical College and Hospital at Vellore also in as much as these provisions of the Act do not interfere with the right guaranteed under Article 30(1) to minority educational institutions”

From the above observations of the Hon'ble Supreme Court, it is clear that Universities and Educational Institutions also an industry and that therefore the employees of the Educational Institutions

are also entitled for bonus. Furthermore, in this case it is not established by the respondent management that they are giving education on free of cost and medical treatment was given without receiving any fees *i.e.*, on free of cost. Further, it is not disputed by the respondent management that members of the petitioner union are not working less than 30 days at the respondent establishment and it is stated by the petitioner union that they are working for several years and they have not been paid bonus by the respondent management.

14. Further, the Conciliation Officer has stated in the conciliation failure report under Ex.P4 that the respondent establishment is a highly profit oriented concern and therefore, the respondent establishment is not exempted from the payment of bonus to their employees. Hence, it is clear that respondent establishment is running for the profit and therefore the respondent establishment is not exempted from the liability of payment of bonus to the workers and that therefore, the members of the petitioner union are not exempted to receive the bonus and they are entitled for bonus as claimed by them and as such, it is to be held that the industrial dispute raised by the petitioner union against the respondent management over non-payment of Bonus to its employees is justified.

15. In the result, the petition is allowed and the industrial dispute raised by the petitioner union against the respondent management over non-payment of Bonus to its employees is justified and Award is passed directing the respondent management to pay Bonus to its workers for the period from 2012-2013 in accordance with the law.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 08th day of January, 2018.

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

List of petitioner's witness:

PW.1 —01-12-2015— N. Ramar

List of petitioner's exhibits:

Ex.P1 —01-08-2013—Copy of the dispute raised by the petitioner union before the Labour Officer (Conciliation).

Ex.P2 —26-08-2013—Copy of the letter given by the respondent to the Labour Officer (Conciliation).

Ex.P3 —11-10-2013—Copy of the letter given by the respondent to the Labour Officer (Conciliation).

Ex.P4 —07-02-2014—Copy of conciliation failure report.

Ex.P5 —21-04-2014—Copy of the reference sent by the Government.

List of respondent's witnesses: Nil.

List of respondent's exhibits: Nil.

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

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 33/Lab./AIL/T/2018,
Puducherry, dated 8th March 2018)

NOTIFICATION

Whereas, an Award in I.D (T) No. 02/2008, dated 31-01-2018 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of the Industrial Dispute between the management of M/s. Bharathiar College of Engineering and Technology, Karaikal and Bharathiar College of Engineering and Technology Non-Teaching Staff Union-over charter of demands such as wage revision, bonus, *etc.*, 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)

S. MOUTTOULINGAM,
Under Secretary to Government, (Labour).

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

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

Wednesday, the 31st day of January, 2018

I.D. (T) No. 02/2008

The Secretary,
Bharathiar College of Engineering and
Technology Non-Teaching Staff Union,
Gnanajothi Illam,
4th Lane Kuthalam Pet Road,
Seniar Kulam Street,
Karaikal-609 602.

.. Petitioner

Versus

The Employer,
M/s. Bharathiar College of
Engineering and Technology,
Thiruvettakudy,
Karaikal.

.. Respondent

This industrial dispute coming on 18-01-2018 before me for final hearing in the presence of Thiru R. Mugundhan, Counsel for the petitioner, Thituvalargal L. Swaminathan and I. Ilankumar, Counsels for the respondent, upon hearing both sides, upon 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 by the Government as per the G.O. Rt. No. 17/2008/Lab./AIL/J, dated 12-02-2008 for adjudicating the following:-

(i) Whether the dispute raised by Bharathiar College of Engineering and Technology Non-Teaching Staff Union, over charter of demands such as wage revision, bonus, *etc.*, against the management of M/s. Bharathiar College of Engineering and Technology, Karaikal is justified or not?

(ii) To what relief, the workers are entitled to?

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

2. *The averments in the claim statement of the petitioner, in brief, are as follows :*

The petitioner is a registered under the Trade Unions Act, 1926 with Reg. No. 1488/RTU/2007. The petitioner espouses the cause of its members employed in the respondent College, The petitioner

has about 160 members in the respondent College. On 12-09-2006 the petitioner union placed a charter of demands such as annual increment, leave facility, medical reimbursement scheme, Employees Provident Funds Act, uniform and liveries, supply of soaps and towels, appointment of cleaners, Festival advance, bonus, identity card, pay slip, over time allowance and wages with the respondent college. The above said demands were placed with the management and since they refused to conciliate and settle the matter amicably the dispute has been referred. The non-teaching staffs are unable to make both ends meet. The service conditions in the respondent College are far below the statutory standards which resulted the employees are put to great hardship and prejudice. The employees are not being paid appropriate wages and given the benefits like bonus, festival advance, leave facilities, medical reimbursement which in term affects the morale of the employee and also is right to livelihood guaranteed under Article 21 of Constitution of India. Further, it results in exploitation of labour and also deprivation of the wages earned by the employees. The non issuance of the identity card, pay slips, over time wages, providing uniform, and soaps and towels is affecting the conditions of service. The respondent being an Engineering and Technology Institution is involved in industrial activity while imparting technical education. They maintain labs and machines to train the students. The employees are involved in the process of maintain the machines and equipments, various chemicals are also being stored. Equipments functioning in high temperature are also being used to teach the students. It is systematic and perennial thereby falling under the definition of industry. The respondent management controls the entire activities of the union. The minimum requirements specified under Factories Act 1948 towards safety, health, cleanliness and attendance ought to be complied with the respondent College. The petitioner union had placed the charter of demands over wage revision, *etc.*, before the respondent management, but, the same is not considered in a genuine manner by the respondent management. In other technical institutions the employees are given better service conditions. The Government college staffs are in a better position. Though the staffs are doing the same work they are not enjoying same or similar service conditions. The benefits of Pay Commission are not available to the employees. It is arbitrary and irrational.

Education being public duty, the employees is entitled to better service conditions and parity in employment. The demands are justified and reasonable and the denial of the same is unjust. Therefore the petitioner union prayed this Court to hold that the demands of the petitioner regarding wage revision, bonus, *etc.*, as placed in their charter of demands, dated 12-09-2006 is justified and to direct the respondent College to grant all to benefits in monetary terms.

3. Even after granting sufficient opportunities to file the counter statement the respondent have not filed any counter and hence, this Court has posted the case for enquiry without passing any *ex parte* order against the respondent and in the course of enquiry on the side of the petitioner PW1 was examined and Ex.P1 to Ex.P10 were marked. Though sufficient opportunities were given to the respondent no evidence has been let in and no exhibit has been marked on their side. Both sides are heard. The submission of both the parties, the evidence let in and the exhibits marked on the side of petitioner are carefully considered. On the side of the respondent, after the case was resumed for order has filed written argument and the same is carefully considered. The respondent has stated in the written argument that they have filed counter on 29-03-2012. But, on perusal of records it is learnt to this court that no such counter was filed by the respondent.

4. *The point for consideration is:*

Whether the dispute raised by the petitioner union against the respondent management, over charter of demands such as wage revision, bonus, *etc.*, is justified or not and if, justified what is the relief entitled to them.

5. In order to prove their case the president of the petitioner union was examined as PW1 and he has deposed that their union is the registered one and the members of the petitioner union are in service at the respondent College and that the union has 160 members and that the union has placed a charter of demands regarding annual increment, leave facility, Medical reimbursement scheme, Employees Provident Funds Act, uniform and liveries, supply of soaps and towels, appointment of cleaners, festival advance, bonus, identity card, pay slip, over time allowance and payment of wages in time before the respondent management on 12-09-2006 and since, the management refused to conciliate and settle the matter amicably they have raised the industrial dispute before

the Conciliation Officer and as the conciliation was failed, the conciliation failure report was sent to the Government on 24-07-2007 and this case has been referred by the Government to this Tribunal to decide the dispute. In support of their case the petitioner union has exhibited Ex.P1 to Ex.P10. Ex.P1 is the copy of the Office Order of the respondent College, dated 29-06-2006. Ex.P2 is the copy of the letter of the union given to the Labour Officer, Karaikal, on 07-12-2006. Ex.P3 is the copy of the letter of the union given to the Labour Officer, Karaikal, on 06-10-2006. Ex.P4 is the copy of the pay revision memorandum of the Union, dated 12-09-2006. Ex.P5 is the copy of the letter of the union given to respondent on 12-10-2006. Ex.P6 is the copy of G. O. Rt. No. 17/2008/Lab./AIL/J, dated 12-02-2008 regarding conciliation failure report No. 24/2006, dated 24-07-2007 from the Labour Officer, Karaikal. Ex.P7 is the copy of the G.O. Ms. No. 11/Lab./AIL/G/2015, dated 09-10-2015 regarding revision of minimum rates of wages for employment in Hospitals and Nursing Homes. Ex.P8 is the list of the present members of the petitioner union, dated 14-10-2017. Ex.P9 is the copy of the salary slips of a house keeping employee namely, K. Chitra (15 Nos.). Ex.P10 is the copy of the Order passed on 27-07-2017 by the Authority under the Minimum Wages Act, directing to pay wages to the employees.

6. These documents would go to show that the petitioner union has submitted the charter of demands for wage revision, *etc.*, before the respondent management and on 29-06-2006 the management has raised the Dearness Allowance to 50% from 01-07-2006 and has cancelled the HRA and that the petitioner union has made representation before the Labour Officer, Karaikal over demand for pay revision memorandum and that the union has also sent a reminder letter on 06-10-2006 to the Labour Officer, Karaikal and that the union has sent a letter on 12-10-2006 to the management intimating that they are constrained to go on strike if, the demands are not settled by the management and that the conciliation proceedings was ended in failure and the reference has been sent to this Court on the failure report of the Conciliation Officer. The documents further would go to show that Lab Assistants, Attenders, Drivers and House-Keeping Staffs are members of the petitioner union and that they are receiving salary from ₹ 6,000 to ₹ 3,500 and that one House-Keeping Staff receiving ₹ 3,500 per month as salary and that the Asst. Inspector of Labour has filed an application before the Authority under the Minimum Wages

Act, 1948 wherein, it was ordered and directed by the Authority that to pay notified Minimum Wages *i.e.*, ₹ 7,545 as monthly wages or ₹ 296 per head per day from 01-04-2016 and ₹ 7,697 as monthly wages or ₹ 296 per head per day from 01-01-2017 and also directed to settle the pay difference between the notified minimum wages under Minimum Wages Act and that therefore, the main contention of the petitioner union is that they have been paid even minimum to the Minimum Wages Act.

7. On the other hand, though the respondent has not filed counter objection, has cross examined PW1 and it was suggested by the respondent management that the petitioner union has failed to establish that PW1 is the president of the petitioner union since no document is filed to prove the fact that PW1 is the president of the petitioner union. Further, it was contended through cross examination by the respondent management by putting suggestion that members of the petitioner union have not represented properly through authenticated person and PW1 has no *locus standi* to represent on behalf of the union and that the members of the petitioner union are not entitled for any wage revision. However, it is not disputed by the respondent management that the petitioner union has submitted charter of demands before the respondent management and their demands was not considered by the management and that therefore, the petitioner union has raised the dispute before the Conciliation Officer.

8. Further, it is established by the petitioner union through documents that the charter of demands for wage revision, *etc.*, submitted by the petitioner union was not accepted by the respondent management and hence, the petitioner union has raised the industrial dispute before the Labour Conciliation Officer and on failure of conciliation, the failure report was submitted by the Labour Conciliation Officer. While the facts are so, the respondent has filed a written argument wherein, it is contended that a person who has filed the claim statement had left the service of respondent College in the year 2009 itself and the same was accepted by PW1 in his evidence and PW1 also was dismissed from service on 20-03-2008 and hence the members of the petitioner union are not entitle for any relief as none of the workers employed in the respondent College were examined as witness and PW1 has no *locus standi* to depose before this Court for the industrial dispute raised by the petitioner union and that the petitioner union has not filed Registration Certificate of the union and it is further contended by the respondent that the claim has to be rejected on the ground that the petitioner union had not chosen to examine any of the workers who are employed in the respondent College.

9. On perusal of records and evidence of PW1, it is clear that the President of the union has given evidence on behalf of union and that it is not disputed by the respondent management that he is not the President of the union and even no counter statement has been filed by the respondent to deny the said averment that he was the President of the union. Further, the pay revision memorandum of the union exhibited under Ex.P4 would reveal the fact that the union has asked for pay revision by submitting a memorandum for annual increment, leave facility, festival advance, bonus and the claim of the petitioner union that annual increment at the rate of 3%, leave facility, payment of contribution of Employees provident fund, bonus, identity card, pay slip, over time allowance, payment of wages on or before 5th of every succeeding month are reasonable and are mandatory needs that are to be done by the management under the enactments and that therefore, the abovesaid demands are the reasonable demands made by the petitioner union.

10. Admittedly, the demands raised by the petitioner union were not accepted by the respondent management and then only the petitioner union has raised the industrial dispute before the Conciliation Officer which was referred before this Court by the Government. The contention of the respondent management in the argument that none of the workers who are employed at the respondent have given evidence cannot be accepted since at the time of raising the industrial dispute PW1 and others are in the employment at the respondent College as workers. However, the claims in respect of implementation of medical reimbursement scheme, uniform and liveries, supply of soaps and towels, appointment of cleaners and festival advance are not to be given by the management under any enactment and only it is to be given by the management for creating the industrial harmony and that therefore, it is to be held that the industrial dispute raised by the petitioner union against the respondent management over charter of demands such as annual increment at the rate of 3%, leave facility, payment of contribution of employees provident fund, bonus, identity card, pay slip, over time allowance and payment of wages on or before 5th of every succeeding month are justified and in respect of other demands are not justified and the petitioner union workers are entitled only for demands such as annual increment at the rate of 3%, leave facility, payment of contribution of Employees Provident fund, bonus, identity card, pay slip, over time allowance and payment of wages on or before 5th of every succeeding month and as such the petition is liable to be partly allowed.

11. In the result, the petition is partly allowed and the industrial dispute raised by the petitioner union against the respondent management over charter of demands such as annual increment at the rate of 3%, leave facility, payment of contribution of Employees provident fund, bonus, identity card, pay slip, over time allowance and wages are justified and demands in respect of medical reimbursement scheme, uniform and liveries, supply of soap and towels, appointment of cleaners and festival advance are not justified and Award is passed directing the respondent management to give benefits such as annual increment at the rate of 3%, leave facility, payment of contribution of employees provident fund, bonus, identity card, pay slip, over time allowance and payment of wages on or before 5th of every succeeding month to the workers of the petitioner union. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 31st day of January 2018.

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

List of petitioner's witness:

PW1 — 15-09-2017 — Manickam

List of petitioner's exhibits:

Ex.P1 — 29-06-2006 — Copy of the Office Order of the respondent College.

Ex.P2 — 07-12-2006 — Copy of the letter of the union given to the Labour Officer, Karaikal.

Ex.P3 — 06-10-2006 — Copy of the letter of the union given to the Labour Officer, Karaikal.

Ex.P4 — 12-09-2006 — Copy of the pay revision memorandum of the union.

Ex.P5 — 12-10-2006 — Copy of the letter of the union given to respondent.

Ex.P6 — 12-02-2008 — Copy of G.O. Rt. No. 17/2008/Lab./AIL/J, regarding conciliation failure report No. 24/2006, dated 24-07-2007 from the Labour Officer, Karaikal.

Ex.P7 — 09-10-2015 — Copy of the G. O. Ms. No. 11/Lab./AIL/G/2015, regarding revision of minimum rates of wages for employment in Hospitals and Nursing Homes.

Ex.P8 — 14-10-2017 — List of the present members of the petitioner union.

Ex.P9 — — Copy of the salary slips of a house keeping employee namely K. Chitra (15 Nos.).

Ex.P10 — 27-07-2017 — Copy of the order passed by the authority under the Minimum Wages Act, directing to pay wages to the employees of respondent.

List of respondent's witnesses: Nil.

List of respondent's exhibits: Nil.

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

GOVERNMENT OF PUDUCHERRY

**CHIEF SECRETARIAT
(HIGHER AND TECHNICAL EDUCATION)**

(G.O. Ms. No. 13, Puducherry, dated 10th April 2018)

ORDER

In compliance with the directives issued by the Hon'ble Supreme Court of India, under Article 142 of the Constitution of India, in Writ Petition (Civil) No. 350 of 1993 in the matter of Islamic Academy of Education and Another Vs. State of Karnataka and Others, dated 14-08-2003, 'Fee Committee' to determine the fee structure in the Unaided Private Professional Educational Institutions functioning in the Union territory of Puducherry was constituted *vide* (1) G.O. Ms. No.14, dated 6-3-2015 of the Chief Secretariat (Education), Puducherry, (2) G.O. Ms. No.31, dated 22-12-2016 of the Chief Secretariat (Higher and Technical Education), Puducherry,