



# புதுச்சேரி மாநில அரசிதழ்

## La Gazette de L'État de Poudouchéry

### The Gazette of Puducherry

அதிகாரம் பெற்ற வெளியீடு

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#### பொருளடக்கம்

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case of the petitioner union that the enquiry was conducted for about 10 years and two times Enquiry Officers has been transferred and that therefore, the enquiry was not conducted as per the circular issued by the Secretary to Government, Puducherry on 13-07-1993 in which it is directed by the Chief Secretary to all Departments that all enquiry should be completed within 180 days and that therefore, the enquiry conducted after 180 for about 10 years is against natural justice and in violation of above circular, dated 13-07-1993 of Chief Secretary of Puducherry.

6. In order to prove the case, the Sanitary Maistry Gr.-II Ramalingam was examined as PW.1 and in support of his evidence PW.1 has exhibited Ex.P1 to Ex.P7. Ex.P1 is the copy of the counter statement filed by the respondent Municipality before the Labour Officer (Conciliation). Ex.P2 is the copy of the notice for enquiry. Ex.P3 is the copy of the order of Disciplinary authority. Ex.P4 is the copy of the order of Disciplinary authority. Ex.P5 is the copy of the information furnished by the Commissioner-cum-Public Information Officer, Puducherry. Ex.P6 is the copy of the circular issued by the Chief Secretary to Government, Puducherry. Ex.P7 is the copy of the note issued by Local Administration Department, Puducherry.

7. From the above documents, Ex.P6 is the circular issued by the Chief Secretary to Government, Puducherry, wherein it is directed by the Chief Secretary to Government that enquiry should be completed within 180 days. But, in this case, the enquiry conducted by the respondent establishment is not completed within the period of 180 days and it is also learnt from Ex.P1 that enquiry was commenced in the year 1992 and Municipality has initiated the disciplinary proceedings against 12 persons including said Ramalingam only in the year 1994 and the enquiry was completed only in the year 2004. These facts would go to show that enquiry was conducted for about 12 years from the date of the alleged occurrence of misconduct and that therefore, the period beyond 180 days that is for about 12 years the enquiry was conducted and only in the year 2004 the order has been passed by the Enquiry Officer on 27-07-2004. Further, it is learnt from Ex.P5 that juniors were promoted to the post since, disciplinary action was pending against the Sanitary Maistry Gr.-II Ramalingam before the Enquiry Officer for the period of 10 years though the Sanitary Maistry Gr.-II Ramalingam is the senior most to the said persons.

8. It is clearly established through the evidence of PW.1 and records that enquiry is not completed within the period of 180 days and admittedly, the enquiry was completed only in the year 2004 *i.e.*, the enquiry was

pending for the period of 12 years from the date of alleged charge levelled against the workman Ramalingam and that therefore, as rightly pointed by the petitioner union that the enquiry conducted by the respondent Municipality is against the circular of the Chief Secretary to Puducherry and it is also established by the petitioner union that the juniors were promoted in the year 1993 to the next cadre and the name of the Sanitary Maistry Gr.-II Ramalingam was not considered for promotion stating that enquiry is pending against him and that therefore, it is to be held that the industrial dispute raised by petitioner union against the respondent Municipality over the punishment order, dated 30-01-2006 of Ramalingam, Sanitary Maistry Gr.-II, that the pay by two stages from ₹ 3,950 to ₹ 3,800 in the Time Scale of Pay of ₹ 3,050-75-3,950-80-4,590 for a period of two years with effect from 01-07-2004 and to subsequently promote him to the post of Sanitary Maistry Gr.-I respectively from 1994 with all benefits are justified and hence, the said Ramalingam is entitled for the claim as prayed by him and as such, the petition is liable to be allowed.

9. In the result, the petition is allowed and the industrial dispute raised by the petitioner union against the respondent Municipality over the punishment order dated 30-01-2006 of Thiru Ramalingam, Sanitary Maistry Gr.-II, that the Pay by two stages from ₹ 3,950 to ₹ 3,800 in the Time Scale of Pay of ₹ 3,050-75-3,950-80-4,590 for a period of two years with effect from 01-07-2004 and to subsequently promote him to the post of Sanitary Maistry Gr.-I respectively from 1994 with all benefits are justified and an Award is passed by directing the respondent Municipality to give promotion to the said Ramalingam with retrospective effect from the said period on which date he has reached such seniority for promotion. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 26th day of October, 2017.

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

*List of petitioner's witness:*

PW.1 —13-10-2017 — A. Ramalingam

*List of petitioner's exhibits:*

Ex.P1 —27-07-2016 — Copy of the counter statement filed by the respondent Municipality before the Labour Officer (Conciliation).

- Ex.P2—14-05-2002— Copy of the notice for enquiry.  
 Ex.P3—27-07-2004— Copy of the order of Disciplinary authority.  
 Ex.P4—31-01-2006— Copy of the order of Disciplinary authority.  
 Ex.P5—01-06-2015— Copy of the information furnished by the Commissioner-cum-Public Information Officer, Puducherry.  
 Ex.P6—13-07-1993— Copy of the circular issued by the Chief Secretary to Government, Puducherry.  
 Ex.P7—06-08-2012— Copy of the note issued by Local Administration Department, Puducherry.

*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. 195/Lab./AIL/T/2017,  
 Puducherry, dated 26th December 2017)*

**NOTIFICATION**

Whereas, an Award in I.D (L) No. 29/2016, dated 27-11-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Tamil Nadu State Corporation, Uppalam Depot, Dr. Ambedkar Salai, Uppalam, Puducherry and Thiru E. Gunasekaran, No. 2/491, Mariamman Koil Street, Anna Nagar, Pallithennal Post, Villupuram District, 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 the Secretary to Government (Labour), that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

**E. VALLAVAN,**  
 Commissioner of Labour-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.*

*Monday, the 27th day of November 2017*

**I.D. (L) No. 29/2016**

E. Gunasekaran,  
 No. 2/491, Mariamman Koil Street,  
 Anna Nagar, Pallithennal Post,  
 Villupuram District. . . Petitioner

*Versus*

The Managing Director,  
 M/s. Tamil Nadu State Corporation,  
 Uppalam Depot, Dr. Ambedkar Salai,  
 Uppalam, Puducherry. . . Respondent

This industrial dispute coming on 23-11-2017 before me for final hearing in the presence of Thiru Durai Arumugam, Representative for the petitioner, Tmt. J. Vanitha, 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. 111/AIL/Lab./T/2016, dated 05-12-2016 for adjudicating the following:-

(i) Whether the dispute raised by Thiru E. Gunasekaran, Villupuram District against the management of M/s. Tamil Nadu State Corporation, Puducherry, over his non-employment is justified? If justified, what relief he is entitled to?

(ii) 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 was served as Conductor for about 28 years at the respondent Depot functioning at Uppalam, Puducherry. The petitioner was a diabetic patient. Though the petitioner was suffering from diabetic, he has attended the duty properly without fail. The respondent management did not mention his presence to duty in the attendant register and stated that if, work is allotted, then only it will be entered in attendance register and only his presence will not be taken into account. The respondent management without mentioning his presence to

duty terminated his service stating that he was absent to duty which is against to law. Inspite of his illness, the petitioner was unable to attend duty regularly. However, he submitted medical leave to the respondent management. The respondent management without taking into account the leave taken by the petitioner as medical leave, stated that he was absent to duty without any leave and issued charge-sheet and demanded explanation. The leave letters of the petitioner are not accepted, even if, it is accepted, it is not acknowledged by the respondent management. The petitioner submitted his explanation for the charge-sheet, dated 20-11-2012 to the respondent management. Since, the respondent management has terminated the petitioner from service while the I.D. No. 05/2011 is pending the respondent management ought to get the approval by filing petition under section 33 (2)(b) before the Industrial Tribunal for the disciplinary action taken against the worker. However, the respondent management did not file any approval petition while I.D. No. 05/2011 was pending before the Industrial Tribunal at Puducherry. Instead of that the respondent management has filed approval petition before the Deputy Commissioner, Tamil Nadu which is not sustainable. Hence, the termination order passed by the respondent management without following any legal procedure is to be declared as illegal and prayed for reinstatement with continuity of service and back wages by calculating ₹ 18,383 per month.

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

The respondent denied all the averments made by the petitioner in his claim statement and stated that the petitioner was employed as temporary Conductor on 08-07-1987 by the respondent management and he was confirmed as permanent on 01-07-1989. The petitioner was absent to duty from 05-10-2012 till his termination. The action of the petitioner caused distress to the day to day works of the respondent management. The petitioner is having the habit of absent to duty which causes damages to the smooth running of the buses resulted in bad name to the respondent management in the public. Based on the complaint given by the Branch Manager the disciplinary action was initiated against the petitioner and memo was issued to him and since the explanation given by the petitioner is not satisfied to the management, it was honored for domestic enquiry which was conducted on 04-07-2013 in which the petitioner has appeared and charges were explained to the petitioner and he had accepted the

same and witnesses were examined and the petitioner was given sufficient opportunity to putforth his case. The petitioner was examined as witness and he has not exhibited any documents on his behalf. Sufficient opportunities were given to the petitioner in the domestic enquiry and the domestic enquiry was conducted in accordance with the principles of natural justice and petitioner also has been permitted to putforth his case with assistance of another labour and on the report of the Enquiry Officer, the petitioner has been asked to give his explanation for which the petitioner has not filed any explanation and even he has not stated any objection for the alleged domestic enquiry conducted against him and that the domestic enquiry was conducted fairly by following all the principles of natural justice and that the petitioner was punished for several charges levelled against him and though several opportunities were given, he has not rectified his defect and continuously he was absent for duty and that therefore, the buses has not been properly functioned which creates and spoil the name of the respondent corporation and he has not submitted his leave application along with the medical certificate of the Doctor and he has not even submitted records which to prove that he was treated as in-patient and that therefore, the reasons stated by the petitioner that he was affected by diabetic and hence, he was unable to appear for duty is not satisfied and that therefore, after the enquiry his service was terminated on 21-02-2015 and that the petitioner was given ₹ 18,383 as one month salary and the petitioner was given several opportunities to putforth his case in the domestic enquiry and the charges levelled against the petitioner was proved in the domestic enquiry without any doubt and one month salary was also given to him along with the termination order and that the respondent management has followed the principles laid down by the Supreme Court under section 33(2)(b) of the Act and that the petition was submitted for approval before the Spl. Deputy Commissioner, Labour Department, Chennai on 21-02-2015 and the same was taken on file for enquiry on 27-04-2015 and summon was issued and while so, though the approval petition was numbered in No. 34/2015 and was posted for enquiry and that the petitioner without participating in the enquiry, has raised this industrial dispute before the Conciliation Officer in which on 03-03-2016 a notice was received by the respondent management for which a explanation was given on 16-03-2016 to the Conciliation Officer and thereafter, the enquiry was conducted by the Spl. Deputy Commissioner of Labour in the approval

application and it was prayed to dismiss the conciliation proceedings and that therefore, the Conciliation Officer has submitted his failure report on 21-10-2016 in which the Government has sent the reference to this Tribunal on 05-12-2016 and that the approval application was filed by the respondent management only for the approval of the termination of the petitioner on 21-02-2015 and the same is pending for enquiry from 27-04-2015 till date and that therefore, before getting the approval this industrial dispute has been raised by the petitioner is not sustainable and that therefore, the respondent management prays to dismiss the claim petition.

4. In the course of enquiry on the side of the petitioner PW.1 was examined and Ex.P1 to Ex.P9 were marked and on the side of the respondent RW.1 was examined and Ex.R1 and Ex.R2 were marked.

5. The point for consideration is:

Whether the dispute raised by the petitioner against the respondent management over his non-employment is justified or not and if justified, what is the relief entitled to the petitioner?

6. Both sides are heard. The submission of both the parties, the evidence let in by either sides and the exhibits marked on both sides are carefully considered. On both sides, written arguments were filed and the same were carefully considered.

7. The petitioner has deposed all the facts which are stated in the claim statement in his evidence. Apart from oral evidence the petitioner has exhibited Ex.P1 to Ex.P9. Ex.P1 is the copy of letter submitted by the petitioner before the Labour Officer (Conciliation) which would reveal the fact that petitioner has raised the industrial dispute before the Labour Officer (Conciliation) regarding his non-employment on 20-03-2015 and the same was acknowledged by the Conciliation Officer wherein, the petitioner has stated that due to his illness by diabetics he is not able to attend the duty and though he has submitted medical leave along with the medical certificate, it was not considered by the respondent management and they have entered absence for him in the attendance register and terminated him from service on 21-02-2015 which is against the principles of natural justice. Ex.P2 is the copy of the medical certificate for leave for extension or commutation leave which would go to show that the medical certificate was issued to the petitioner by the Medical Officer for taking medical leave. Ex.P3 is the copy of memo given by the respondent management to the petitioner wherein, it was stated by the respondent management that petitioner was absent from 05-10-2012. Ex.P4 is the copy of enquiry proceedings which would reveal the fact that enquiry was conducted

against the petitioner and one Rajendiran, co-worker was permitted to conduct the case on behalf of petitioner Gunasekaran and wherein, it was stated by the respondent management that due to absence of the petitioner continuously from 05-10-2012 to 14-10-2012 without any intimation the function of the buses were seriously affected and the image of the corporation was reduced and further, it is learnt from Ex.P4 - enquiry proceedings that witness has not been cross examined by the petitioner side though the opportunities were given and it is further learnt that Deputy Manager of the respondent corporation has deposed that petitioner Gunasekaran has not been allotted any work by mentioning route number and the manager has categorically admitted the fact that the petitioner Gunasekaran has not been allotted any work and further, it is learnt from Ex.P4 - enquiry proceedings that it is the charge of the respondent management that petitioner was unauthorizedly absent from 05-10-2012 to 14-10-2012 for about 10 days for duty and it is also admitted by the respondent management that the petitioner was working as a spare Conductor and no separate bus route was allotted to him and the application submitted by the petitioner also has exhibited as document in the enquiry.

8. Further, the petitioner has exhibited the copy of letter submitted by the petitioner to the respondent management as Ex.P5 wherein, the petitioner has stated that he has appeared on the alleged days before the respondent corporation for duty and he was working as spare Conductor and his attendance has not been entered in the register and that he was not absent on the said dates. Ex.P6 is the termination order issued by the respondent management to the petitioner wherein, it is stated by the respondent corporation that petitioner was absent for very long time from the year 1993 to 2012 and several punishment were given to him for the continuous absence without submitting the application for leave and the same was entered in the service register of the petitioner and it is also stated by the respondent management in the termination order that petitioner was often absent and he was absent for 1166 days and though the respondent management has granted sufficient chances, the petitioner not turned up and the termination order would further reveal the fact that the same was issued to the petitioner with one month salary. Ex.P7 is the copy of the letter given by the petitioner to the respondent management on 02-03-2015 to reconsider the termination order wherein he has stated that whenever he attends the duty, no work has been allotted by the respondent corporation and the respondent management has entered in the attendance register as absence without allotting the work with the intention to remove him from service and the petitioner has requested the management to cancel the termination order by reinstate him in service.

9. Further, the petitioner has exhibited the copy of statement of account as Ex.P8 which would reveal the fact that ₹ 18,383 was credited in the account of the petitioner on 02-03-2015. Ex.P9 is the copy of the order passed by Spl. Deputy Commissioner of Labour in Approval Petition No. 34/2015 which is the vital document would reveal the fact that the request of the respondent management to approve the dismissal of the petitioner was rejected by the Spl. Deputy Commissioner of Labour and further, it reveal the fact that domestic enquiry is not conducted fairly and in accordance with the principles of natural justice and further, it reveals that Spl. Deputy Commissioner of Labour could not decide the fact whether enquiry was conducted properly and it is also stated by the Spl. Deputy Commissioner of Labour in the order that since the proceedings of the domestic enquiry is not submitted before him, he could not be able to decide whether there is any *prima facie* case for the termination of the petitioner.

10. On the other hand, it is stated by the respondent management through the examination of one Senthilkumar, working as Assistant of the respondent corporation that petitioner was absent from 05-10-2012 without giving any leave letter to the respondent management by which the petitioner has caused damages to the respondent corporation and hence, the memo was given to him by initiating disciplinary action and subsequently domestic enquiry was conducted and thereafter, the petitioner was removed from service on 21-02-2015 and that the petitioner was terminated while industrial dispute raised by the union against the respondent management regarding 12(3) settlement entered between them in the year 2013 and to enforce the same was pending before the Spl. Deputy Commissioner of Labour and that they have applied for approval of the termination before Spl. Deputy Commissioner of Labour which was taken on file in A.P. No. 34/2015 and the same was exhibited as Ex.R1 and subsequently, on 27-07-2013 the petitioner has submitted an application stating the above facts that the Spl. Deputy Commissioner of Labour has rejected the approval application and he asked for reinstatement along with other benefits and back wages and the same was also exhibited as Ex.R2.

11. From the pleadings of both the parties and exhibits marked by either sides, it is clear that when the industrial dispute raised by the union in respect of 12(3) settlement entered between the respondent management and the union in the year 2013 to enforce the same was pending, the petitioner was removed from service without getting prior permission from the Spl. Deputy Commissioner of Labour and that the respondent management has applied for approval of the dismissal on 21-02-2015 in A.P. No. 34/2015 and admittedly, the same was rejected by the Spl. Deputy Commissioner of Labour which was exhibited as Ex.R1

as well as Ex.P9 and that therefore, the termination order passed by the respondent management was not approved by the Spl. Deputy Commissioner of Labour, Chennai on 03-03-2017 and that therefore, the termination order passed by the respondent management against the petitioner is not sustainable and as such, it is just and necessary to be held that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified and hence, the petitioner is entitled for reinstatement as claimed by him in the claim petition.

12. As this Court has decided that industrial dispute raised by the petitioner against the respondent management over non-employment is justified, it is to be decided whether the petitioner is entitled for back wages as claimed by him. It is learnt from the records that petitioner has taken leave, for which several punishments were given by the respondent management. It is not disputed by the petitioner that he has not taken any leave and he has not been given punishments for the unauthorized absence and it is also revealed from the enquiry proceedings that petitioner was unauthorized absence for several times and several punishments were given which was corroborated by the enquiry proceedings. Further, there is no evidence that the said workman is working so far in any other establishment and that there is no proof exhibited before this Court that he is working anywhere else. The respondent has not proved that the petitioner has earned income after his termination. However, the petitioner workman could have served at anywhere else after his termination. Considering the above circumstances, this Court decides that the petitioner is entitled only for 50% back wages with continuity of service and other attendant benefits.

13. In the result, the petition is allowed by holding that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified by declaring the termination of service of the petitioner from the respondent corporation is illegal and Award is passed by directing the respondent corporation to reinstate the petitioner in service within one month from the date of this order and further directed the respondent corporation to pay 50% back wages from the date of termination till the date of reinstatement with continuity of service and other attendant benefits. No cost.

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

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

*List of petitioner's witness:*

PW.1 —06-09-2017 E. Gunasekaran

*List of petitioner's exhibits:*

Ex.P1 —20-03-2015 Copy of letter submitted by the petitioner before the Labour Officer (Conciliation).

Ex.P2 Copy of medical certificate for leave for extension or commutation of leave.

Ex.P3—20-11-2012 Copy of memo given by the respondent management to the petitioner.

Ex.P4—24-07-2013 Copy of enquiry proceedings.

Ex.P5—17-02-2017 Copy of letter submitted by the petitioner to the respondent management.

Ex.P6—21-02-2015 Copy of termination order issued by the respondent management to the petitioner.

Ex.P7—02-03-2015 Copy of letter regarding reconsideration of termination submitted by the petitioner to the respondent management.

Ex.P8—02-03-2015 Copy of statement of account of petitioner.

Ex.P9—03-03-2017 Copy of the order passed by Spl. Deputy Commissioner of Labour in Approval Petition No. 34/2015.

*List of respondent's witness:*

RW1 —27-10-2017 V. Senthilkumar

*List of respondent's exhibits:*

Ex.R1 —03-03-2017 Copy of the order passed by Spl. Deputy Commissioner of Labour in Approval Petition No. 34/2015.

Ex.R2—27-07-2017 Copy of the letter sent by the petitioner to the respondent management.

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

## GOVERNMENT OF PUDUCHERRY

**DEPARTMENT OF CIVIL SUPPLIES AND  
CONSUMER AFFAIRS**

(GO. Ms. No. 13, Puducherry, dated 2nd January 2018)

**NOTIFICATION**

The Lieutenant-Governor is pleased to constitute Vigilance Committees in order to ensure effective and hassle free implementation of the Targeted Public Distribution System, in Union territory of Puducherry at District Level as well as at Union Territory level.

2. The composition of the Vigilance Committee at each level is as detailed below:

**A. State Level Vigilance Committee**

1. Minister, Civil Supplies and Consumer Affairs. . . Chairman
2. Two MLAs Nominated by the Government. . . Members
3. Secretary to Government, Civil Supplies and Consumer Affairs. . . Member
4. Director of Civil Supplies and Consumer Affairs. . . Member
5. Director of Social Welfare . . . Member
6. Director of Women and Child Welfare. . . Member
7. Director of Adi Dravidar Welfare . . . Member
8. Two representatives from Consumer Activities, Youth and Women/ Organisations from the outlying regions. . . Members
9. Two public representatives from SC, ST, Women and destitute or Persons with disability from the outlying regions. . . Members

**B. District Level Vigilance Committee****I. Puducherry:**

- (a) District Collector, Puducherry . . . Chairman
- (b) Deputy Director, Civil Supplies and Consumer Affairs. . . Member
- (c) Deputy Director (Social Welfare). . . Member
- (d) Deputy/Assistant Director, (Adi Dravidar Welfare). . . Member
- (e) Child Development Project Officer. . . Member
- (f) Five public representatives from SC, ST, Women and destitute or Persons with disability, Nominated from Puducherry region. . . Members