



புதுச்சேரி மாநில அரசிதழ்

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 197/Lab./AIL/T/2017,
Puducherry, dated 29th December 2017)

NOTIFICATION

Whereas, an Award in I.D (L) No.13/2017 dated 28-11-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. R.K. Guest House, Sellur, Karaikal and Thiru G. Ravi, Karaikal, 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.

Tuesday, the 28th day of November 2017.

I.D. (L) No. 13/2017

G. Ravi,
No. 4, East Street,
Sellur, Thirunallar,
Karaikal.

. . Petitioner

Versus

The Managing Director,
M/s. R.K. Guest House,
Sellur, Thirunallar,
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, the respondent being called absent and *set-ex parte*, upon hearing the petitioner and 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. 34/AIL/Lab./T/2017, dated 05-04-2017 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 Thiru G. Ravi, Karaikal against the management of M/s. R.K. Guest House, Sellur, Thirunallar, Karaikal over non-employment is justified or not? If justified, what relief the petitioner 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 stated that he had been in service at the respondent guest house from the year 2004 and he had served for 24 hours at the respondent guest house and no casual leave, festival leave and weekly leave have been granted to the petitioner and no overtime wages were given to him and only he has received ₹ 4,000 as salary per month and when it was questioned by the petitioner, the respondent has granted ₹ 50,000 for petitioner son's marriage and ₹ 3,000 for purchase of two wheeler and while so, the respondent refused employment to the petitioner on 03-03-2015 and that therefore, the petitioner has raised the industrial dispute before the Conciliation Officer on 20-04-2015 and enquiry was conducted on 02-07-2015 wherein, the proprietor of the respondent guest house appeared and stated that the petitioner has not properly maintained the garden and guest house and has committed theft of coconuts and mangoes and sold the same and on several occasions he misused the property and hence, he was terminated by him and it is also stated by the respondent that while leaving the job the petitioner received ₹ 60,000 for his son's marriage and ₹ 10,000 for purchase of vehicle as service benefits and also stated that the petitioner was paid more than the amount entitled to him, against which the petitioner stated that he has not committed any theft as stated by the respondent and he had been in service very sincerely at the respondent guest house and he has not been settled legally and since, the management deny employment, the respondent has to pay compensation and while so, the respondent has sent

Advocate notice to the petitioner stating that to refund the amount given by him as loan for which the petitioner has sent a reply stating that no amount has to be given to him and only with the intention to degrade the industrial dispute the said notice was sent by the respondent and the conciliation was failed before the Conciliation Officer and the Conciliation Officer has submitted a failure report on 27-01-2017 to the Government and that therefore, the petitioner was not terminated by following the procedure laid down under the Act and hence, the petitioner prayed for reinstatement with continuity of service, back wages, leave salary and overtime salary.

3. Though, the respondent appeared before this Court at the first hearing and subsequently despite several opportunities, the respondent did not turn up before this Court and hence, the respondent was *set-ex parte*. In the course of enquiry, on the side of the petitioner no evidence has been let in by the petitioner and only Ex.P1 to Ex.P7 were marked.

4. 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 petitione.

5. Heard. It is the case of the the petitioner that he was working at the respondent guest house and had been in service for about 10 years. Though he had been in service for about 10 years he has been terminated from service on 03-03-2015 and that therefore, he has raised the industrial dispute before the Conciliation Officer and on failure, the Government has referred this matter to this Court. In support of his case, the petitioner has exhibited Ex.P1 to Ex.P7. Ex.P1 is the copy of the dispute raised by the petitioner before the Conciliation Officer on 20.04.2015. Ex.P2 is the copy of the letter given by the respondent to the petitioner on 02-07-2015. Ex.P3 is the copy of the letter given by the petitioner to the Labour Officer (Conciliation) on 17-07-2015. Ex.P4 is the copy of the letter given by the respondent to the Labour Officer (Conciliation) on 23-09-2015. Ex.P5 is the copy of the letter given by the respondent to the Labour Officer (Conciliation) on 14-12-2015. Ex.P6 is the copy of the letter given by the petitioner to the Labour Officer (Conciliation) on 29-02-2016. Ex.P7 is the copy of the conciliation failure report on 27-01-2017.

6. As per the claim statement and records, it is clearly established by the petitioner that he was working in the respondent guest house for more than 10 years and he has been terminated from service without following any procedure laid down under the Industrial Disputes Act by the respondent for which he has raised the industrial dispute before the Conciliation Officer and the conciliation proceedings were failed and that therefore, this reference has been made to this Court to decide whether the dispute raised by the petitioner over non-employment is justified or not.

7. In this case, though, the respondent appeared before this Court and subsequently, despite several opportunities, the respondent did not turn up before this Court and hence, due to their absence, the respondent was *set-ex parte*. Considering the fact that the petitioner has established his case that he was working in the respondent guest house and he has been terminated without following any procedure laid down under the Industrial Disputes Act by the respondent, it is to be held that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified and the petition is liable to be allowed and as such, the petitioner is entitled for the order of reinstatement as claimed by him.

8. As this Court has decided that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified, it is to be decided whether the petitioner is entitled for back wages with continuity of service, leave salary and overtime salary as claimed by the petitioner. The petitioner has not produced any documents with regard to casual leave, festival leave and weekly leave and it is not established by the petitioner that he has worked in holidays. Though, the petitioner has stated in his evidence that he had served for more than 8 hours in a day at the respondent guest house, it is not corroborated by any other witness and documents and further, the petitioner has not summoned from the respondent to prove the fact that the petitioner was working for more than 8 hours and furthermore, nothing is before this Court to decide that he had done the overtime works as stated by him in his oral evidence and therefore, no relief can be granted for leave salary and overtime wages. Further, the petitioner could have served at anywhereelse after his termination from the respondent establishment and therefore, this Court does not find any reasonable cause to grant full back wages to the petitioner and consequently, this Court decides to grant partial back wages of 50% to the petitioner till his reinstatement.

9. In the result, the petition is partly allowed and the industrial dispute raised by the petitioner against the respondent over non-employment is justified and an Award is passed by directing the respondent to reinstate the petitioner within one month from the date of this order and to pay 50% backwages from the date of termination till the date of reinstatement with continuity of service and other attendant benefits. No cost.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 28th day of November, 2017.

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

List of petitioner's witness: Nil

List of petitioner's exhibits:

- Ex.P1 — 20-04-2015 — Copy of the dispute raised by the petitioner before the Conciliation Officer.
- Ex.P2 — 02-07-2015 — Copy of the letter given by the respondent to the Labour Officer (Conciliation).
- Ex.P3 — 17-07-2015 — Copy of the letter given by the petitioner to the Labour Officer (Conciliation).
- Ex.P4 — 23.09.2015 — Copy of the letter given by the respondent to the Labour Officer (Conciliation).
- Ex.P5 — 14-12-2015 — Copy of the letter given by the respondent to the Labour Officer (Conciliation).
- Ex.P6 — 29-02-2016 — Copy of the letter given by the petitioner to the Labour Officer (Conciliation).
- Ex.P7 — 27-01-2017 — Copy of the conciliation failure report.

List of respondent's witness: 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. 198/Lab./AIL/T/2017
Puducherry, dated 29th December 2017)

NOTIFICATION

Whereas, an Award in Industrial Dispute (L) No. 46/2012, dated 23-11-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Soundraraja Mills Limited, Nedungadu, Karaikal and D.Kamaraj, No.166, First Floor, Bharathiar Road, Karaikal, over final settlement on par with other Badli workers settled during 2004 for his total service have 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.

Thursday, the 23rd day of November, 2017

I.D. (L) No. 46/2012

D. Kamaraj,
No.166, First Floor,
Bharathiar Road,
Karaikal. . . Petitioner

Versus

The Management,
M/s. Soundraraja Mills Limited,
Nedungadu,
Karaikal. . . Respondent

This industrial dispute coming on 07-11-2017 before me for final hearing in the presence of Tvl. N. Muthukumaran and J. Ganesan, Counsel for the petitioner, Thiru. Jegadharaj, Counsel for the respondent and subsequently, when the

case is posted for argument the petitioner called absent and no representation and upon hearing the respondent, 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. 132/AIL/Lab./J/2009, dated 1-09-2009 for adjudicating the following:-

(i) Whether the dispute raised by Thiru D. Kamaraj, Driver against the management of M/s. Soundararaja Mills Limited, Karaikal seeking final settlement on par with other Badli workers settled during 2004 for his total service is justified or not?

(ii) If justified, to what relief the petitioner is entitled to?

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

The above reference originally taken on file by the District Court at Karaikal which was being functioned as Labour Court in Industrial Dispute No.11/2009 and subsequently, when this Industrial Tribunal-cum-Labour Court established in the year 2012, the case has been transferred to this Court and this case was taken on file by renumbering it as Industrial Dispute (L). No.46/2012.

2. *The petitioner in his claim statement has stated as follows :*

The petitioner was appointed at the respondent establishment on the basis of paper publication given by the respondent on 31-01-2001, after examination of his skill and perusal of his driving licence by the respondent and initially he was earning ₹1,800-00 per month and while at the time of appointment, the respondent management has obtained his signature in several papers and that he was appointed as Badli worker on 01-02-2005 and he had been given ₹ 2,769-23 as monthly wages and the respondent management has deducted ₹ 332 towards GPF and ₹ 49 for ESI and in the month of April-2008 and May-2008, the respondent management has committed lock out and the petitioner has been paid wages only for the month of April after deduction, he has received ₹ 2,945 and in the month of June-2008 and July-2008 he had been on ESI leave and he has worked from 01-08-2008 to 13-08-2008 and he has received the salary for the said period and he has worked at the respondent establishment for about

43 months and he had paid salary and though, he had been served for about 12 hours per day it was accounted only for 8 hours and salary was given only for the said period and that he had not resigned his job at any time at respondent establishment and alleged resignation letter, dated 19-09-2008 is not written by him and that the respondent management has created the resignation letter by utilising his signature and they have subsequently accepted the said resignation and that in the negotiation held before the District Collector at the time of lock out of the respondent establishment the respondent management has accepted to pay ₹ 1,50,000 to the permanent workers and based on that 156 permanent workers have given consent to Voluntary Retirement Scheme and hence, he also has claimed ₹ 1,50,000 as if, he is a permanent worker and that the respondent management has refused to pay the same and also not accepted to confirm his service as permanent and that as the settlement given to Badli workers in the year 2004 at the rate of ₹ 35 per day by the respondent management, the petitioner requested that he has to be given settlement at the rate of ₹ 35 per day and he has to be permitted to serve as daily wage basis and the respondent management has denied the same and therefore, the petitioner has raised a dispute before the Labour Officer on 24-09-2008 and on failure of the conciliation the Labour Officer has submitted a failure report on 14-07-2009 and further stated that his wife, his elder daughter who is studying 10th standard and his younger son who is studying 5th standard depends on him and he is not having own house and land and that his wife is not working anywhere and therefore, prayed this Court to direct the respondent management to reinstate him in service as a permanent worker and for arrears of wages.

3. *The respondent management in their counter has stated as follows :*

The claim petition filed by the petitioner is not maintainable since the petitioner has already raised the industrial dispute for gratuity and the same was rejected by the Labour Officer (Conciliation) stating that industrial dispute cannot be raised under Industrial Disputes Act with regard to the gratuity and it can be claimed only under the Gratuity Act and that therefore, the Labour Officer (Conciliation) who has sent the failure report and the reference of the Government is also not maintainable and the claim statement filed by the petitioner on the foot of the reference sent to this Tribunal is also not at all sustainable and that petitioner was working as temporary Driver at the respondent

management from 01-02-2005 and he has taken leave for the period from 01-09-2008 to 03-09-2008 and that the petitioner is unauthorisedly absent from 04-09-2008 to 18-09-2008 without any intimation to the respondent management and while he returned on 19-09-2008 he has given a resignation letter to the management which was accepted on the same day and thereafter, he had been in service at some other establishment and on the instigation of somebody else, the petitioner has raised the industrial dispute on 24-09-2008 before the Conciliation Officer for which the respondent management has submitted their reply on 13-01-2009 denying all the particulars stated by the petitioner and however, the Conciliation Officer without rejecting the plea of the petitioner submitted failure report to the Government for which the reference has been sent to this Court and that therefore, the reference itself is not maintainable under the Industrial Disputes Act.

The respondent management further stated that the allegation stated by the petitioner that he was appointed under the paper publication and that he has been examined and selected on perusal of his driving licence as a Driver for the wage of ₹ 1,800 per month in which ₹ 69.70 has been deducted for one day leave was denied as false and that as per records, the petitioner was appointed at the respondent establishment on 01-02-2005 and the averment that he had been in service from 31-01-2001 is utterly false and it is true that the petitioner had been in service from 01-02-2005 to 19-09-2008 and other averments that the petitioner had been served for 12 hours instead of 8 hours is totally false and the petitioner has not stated anything about the period of service and averment that petitioner has not resigned his job and the resignation letter, dated 19-09-2008 is not written by him is also utterly false since the resignation letter has been written at his own handwriting and therefore, the allegation of the petitioner that the resignation letter was fabricated by the respondent management is also utterly false.

The respondent management further stated that other allegations of the petitioner that in the negotiation held before the District Collector at the time of lockout the respondent management has accepted to give ₹ 1,50,000 to permanent workers for which the permanent workers were given consent to Voluntary Retirement Scheme and that therefore, the petitioner has claimed ₹ 1,50,000 as a permanent worker to the respondent management for which the respondent management has refused to pay the same to the petitioner is false and other allegation of the

petitioner is that the petitioner claimed in the year 2008 for settlement to him at the rate ₹ 35 per day as it was given by the management to the Badli workers in the year 2004 and the respondent management has denied the same is also false and another allegation that without resigning his job on 24-09-2008, the petitioner raised a dispute before the Labour Officer and on failure of the conciliation, the Labour Officer has submitted a failure report on 14-07-2009 is also utterly false.

The respondent management further stated that only with the intention to get the money from the respondent establishment the petitioner has filed this application and that the petitioner is not the party to the settlement entered between the respondent management and the Badli workers since the petitioner is not a badli worker and that in the year 2004, the petitioner was not in service and that therefore, the petitioner cannot get the benefits of the settlement entered in the year 2004 and other reasons stated by the petitioner that his wife, his elder daughter who is studying 10th standard and his younger son who is studying 5th standard depends on him and he is not having own house and land, and that his wife is not working anywhere and claimed relief on that ground is not sustainable and against the truth and order of the Government, dated 11-09-2009 and further stated that the petitioner has accepted the fact that he had been in service in some other establishment while he was working at the respondent establishment and that the petitioner has not claimed any permanent work in his letter, dated 24-09-2008 and that non-employment of petitioner by respondent or adjudicate regarding the same was not mentioned in the Government order, dated 11-09-2009 and that the claim sought by the petitioner in his claim statement is against law and therefore, prayed to dismiss the claim petition.

4. In the course of enquiry on the side of the petitioner PW1 & PW2 was examined and Ex.P1 to Ex.P10 were marked and on the side of the respondent RW1 was examined. While perusing the records for passing of Award, it is learnt that the respondent has exhibited Ex.R1 and Ex.R2 in the cross examination of PW1 and subsequently examined their witness as RW1 wherein, instead of marking the documents as Ex.R3 to Ex.R8, once again it is wrongly mentioned in docket sheet as Ex.R1 to Ex.R8 and hence, this Court has rectified the same and the documents were exhibited as Ex.R8 to Ex.R8. Furthermore, the evidence of RW1 has not been challenged since RW1 was not cross examined by the petitioner side, though, several opportunities were given. Further, to put forth the argument of the petitioner several opportunities were

given to the petitioner on 15-09-2017, 13-10-2017, 27-10-2017 and 07-11-2017. But, no argument was put forth on the side of the petitioner and the petitioner was also not turned up before this Court and hence, the argument of the petitioner side was closed and the argument of the respondent was heard and the case was posted for orders.

5. The point for consideration is:

Whether the dispute raised by the petitioner against the management seeking final settlement on par with other Badli workers settled during 2004 for his total service, is justified or not and if justified, what is the relief entitled to the petitioner?

6. The pleadings of the parties, the evidence let in by either sides and the exhibits marked on both sides are carefully considered. On the side of the respondent written argument was filed and the same is carefully considered.

7. In order to prove the case of the petitioner, the petitioner was examined as PW1 and he has deposed all the facts which are stated in the claim statement and reiterated the same in his evidence. To corroborate the evidence of PW1, one Manickam was examined as PW2 and he has stated in his evidence that he was conducting travels in the name of Thangam Tavel and that for the period of 18-09-2008 to 23-09-2008, the petitioner was engaged by him to drive the vehicle bearing Reg. No. PY 02 E 7227 from Karaikal to Tirupathi for which the trip sheet was sealed by Renigunda (RTO) checkpost at Andhra and root permit also has been submitted and that the petitioner Kamaraj was working under him on contract. In support of his case the petitioner has exhibited Ex.P1 to Ex.P10. Ex.P1 is the copy of the letter given by the petitioner to the Labour Officer, Karaikal on 24-09-2008 which would reveal the fact that petitioner has submitted a letter on 24-09-2008, wherein, he has stated that he has joined in the year 2001 at the respondent establishment as a Badli workman and had been in service till 31-05-2008 as a Driver and that in the year 2004 the Badli workers of the respondent establishment have been settled by calculating at the rate of 35 per day for the period from the date of joining till the date of relieving and that he has asked the same from the respondent establishment. Ex.P2 is the copy of the letter given by the petitioner to the Labour Officer, Karaikal on 22-01-2009, wherein, he has stated that he had been in service at the respondent establishment from January-2001 to May-2008. Nedungadu Post Office savings passbook of petitioner is exhibited as Ex.P3 which would reveal the fact that the petitioner has deposited ₹ 200 per month for the period of five years from

11-02-2002 till 04-01-2007. Lakshmi Vilas Bank savings pass book of petitioner is exhibited as Ex.P4 which would reveal the fact that the petitioner had an account at Lakshmi Vilas Bank, Karaikal. Ex.P5 is the copy of reply given by the respondent management to the Labour Officer (Conciliation), Karaikal on 13-01-2009. These documents would go to show that the petitioner has an account at Nedungadu Post Office and has deposited a recovery deposit of ₹ 200 per month for the period from 2002 till 2007 and he has got savings bank account at Lakshmi Vilas Bank at Karaikal and the respondent management has submitted a reply on 13-01-2009 before the Conciliation Officer for the industrial dispute raised by the petitioner, dated 24-09-2008.

8. Further, Ex.P6 is the copy of reply given by the respondent management to the Labour Officer (Conciliation), Karaikal on 04-06-2009, wherein, it has been stated by the respondent management that this petitioner has claimed gratuity under the Industrial Disputes Act instead of Payment of Gratuity Act, 1972. Nedungadu Dispensary referral slip, dated 02-07-2008. Copy of benefit payment slip of ESIC, dated 16-08-2005. Copy of accident report along with Form ESIC-32 given by respondent management in respect of petitioner, dated 13-08-2005 are exhibited as Ex.P7. Ex.P8 is the ESI family card of the petitioner. Ex.P9 is the ISI card of the petitioner for the month of March, May & August-2008. These documents would reveal the fact that the petitioner was paid ESI, GPF by the management till August-2008. Further, the letter given by Velumanickam to the Labour Officer, Karaikal, dated 20-01-2009, Trip sheet for contract carriage, dated 19-09-2008, Trip sheet for contract carriage, dated 17-09-2008, Form P.sp- Special permit in respect of a contract carriage, dated 16-09-2008, Form P.sp -Special permit in respect of a contract carriage, dated 18-09-2008 are exhibited as Ex.P10 which would go to show that this petitioner was working as a Driver with one Velumanickam and he had been engaged by him from 16-09-2008 to 19-09-2008.

9. On the other hand, in order to prove the case of the respondent, RW1 was examined and he has reiterated the averment of the counter in his evidence and in support of his case the respondent management has exhibited Ex.R1 to Ex.R8. Ex.R1 is the copy of nomination and declaration Form given by the petitioner to the respondent management, dated 19-03-2005. Ex.R2 is the signature of petitioner in letter regarding acceptance of resignation of petitioner by respondent management, dated 19-09-2008. Ex.R3 is the copy of resignation letter given by petitioner, dated 19-09-2008. Ex.R4 is the copy of letter regarding acceptance of resignation of petitioner by respondent

management, dated 19-09-2008. Ex.R5 is the copy of notice of remarks by Labour Officer (Conciliation) along with complaint given by petitioner, dated 24-09-2009. Ex.R6 is the copy of reply given by respondent management before the Labour Officer (Conciliation), dated 13-01-2009. Ex.R7 is the copy of reply given by the petitioner before the Labour Officer (Conciliation), dated 22-01-2009. Ex.R8 is the copy of reply given by respondent management before the Labour Officer (Conciliation), dated 04-06-2009.

10. The above documents would go to show that petitioner has given an application for Employees Provident Fund scheme on 19-03-2005 to nominate his wife as a nominee stating that he has got one daughter and son and that petitioner has submitted an application to the respondent management that he has to resign his job on 19-09-2008 and the same was accepted by the respondent management on the same day in which the petitioner has also signed and endorsed the same and the respondent management has submitted a reply to the Conciliation Officer, wherein, the respondent management has stated that petition submitted by the petitioner over the payment of gratuity is not maintainable.

11. From the pleadings of both the parties, it is clear that the respondent management has admitted the fact that petitioner was working from 01-02-2005 as a Driver at the respondent establishment and according to the respondent the petitioner was unauthorisedly absent from 04-09-2008 to 18-09-2008 without any intimation to the respondent management though, he has been granted leave for the period from 01-09-2008 to 03-09-2008 and when he returned to duty on 19-09-2008 the petitioner has submitted a resignation letter which was accepted on the same day and it is the case of the respondent management that thereafter he had served at somewhere else and only on the instigation of somebody else he has raised the industrial dispute on 24-09-2008 for which the respondent management has submitted their reply on 13-01-2009 denying all the averments of the petitioner.

12. It is the first contention of the respondent that petitioner has claimed gratuity under the Industrial Disputes Act which is not sustainable since, it can be claimed only under the Payment of Gratuity Act, 1973 and hence, the industrial dispute cannot be raised under such Act for the payment of Gratuity Act. However, on perusal of reference made by the Government, it is clear that the industrial dispute is raised by the petitioner seeking final settlement on par with other Badli workers settled during 2004 for his total service and therefore, the contention raised by the respondent

management is not sustainable and the industrial dispute referred by the Government can be adjudicated by this Tribunal to decide whether the dispute raised by the petitioner against the respondent management seeking final settlement on par with other Badli workers settled during the year 2004 for his total service as a Badli worker. Now, it is to be decided by this Tribunal, whether this petitioner is entitled for any settlement as claimed by him on par with other Badli workers settled during the year 2004. On this aspect, the evidence and records are carefully perused.

13. It is the main contention of the respondent management that petitioner was unauthorisedly absent from 04-09-2008 to 18-09-2008 and subsequently, the petitioner appeared on 19-09-2008 with the resignation letter which was accepted by the management and the petitioner was intimated regarding the acceptance of the resignation and also advised to the petitioner to get the monetary benefits if any, from the respondent establishment and it is the further contention of the respondent management that petitioner is not working as Badli worker at any time and he is not entered with any agreement to the management accepting Voluntary Retirement Scheme and that since the petitioner is not working in the year 2004, he cannot claim any benefit under the settlement made in the year 2001.

14. *The PW1 in his cross examination has stated as follows :*

“ 2005 ஆம் ஆண்டு முன்பு நான் எதிர்மனுதாரர் மில்லில் ஓட்டுநராக பணி செய்து வந்தேன். நான் எதிர்மனுதாரர் ஆலைக்கு பி.எப் சேருவதற்காக கொடுத்த படிவம் தான் ம.சா.ஆ.1. நான் பிப்ரவரி மாதம் 2005 ஆம் ஆண்டு வேலையைச் சேர்ந்தேன். எனக்கு இ.எஸ். ஐ. உண்டு. ம.சா.ஆ.1. யில் கொடை மட்டும் கேட்டுள்ளேன் என்றால் அது சரிதான். பணிக்குக் கொடை என்பது வேலையை விட்டு செல்லும்போது கேட்கமுடியும் என்றால் அது சரிதான். நான் 19-9-2008 ஆம் ஆண்டு வேலையை விட்டு செல்லுவதாக கடிதம் கொடுத்தேன் என்றால் அது சரியல்ல. என்னிடம் காட்டப்படும் கடிதத்தின் கையொப்பம் என்னுடையதுதான் இது எம்.சா.ஆ.2 ஆகும். அது நான் வெள்ளை பேப்பரில் போட்டுக்கொடுத்த கையெழுத்து ஆகும். ம.சா.ஆ. 6-ல் நிர்வாகம் நான் ராஜினாமா செய்ததாக சொல்லியுள்ளது என்றால் அது சரியல்ல. 17-9-2008 தேதி மாலை 6.00 மணிக்கு காரைக்காலிலிருந்து கிளம்பி மறு நாள் காலை 4.30 மணிக்கு திருப்பதியை அடைந்தேன். அன்று இரவு 00.15 மணிக்கு திருப்பதியிலிருந்து கிளம்பி மறுநாள் மாலை 6.10க்கு காரைக்கால் வந்து சேர்ந்தேன். மீண்டும் 19-9-2008 அன்று இரவு 10.00 மணிக்கு காரைக்காலிலிருந்து கிளம்பி மறு நாள் இரவு 8.10 மணிக்கு திருப்பதியை அடைந்தேன். 20ம் தேதி மாலை 5.30 மணி அளவில் திருப்பதியிலிருந்து கிளம்பி இரவு 7.40. மணிக்கு திருத்தணியை அடைந்ததாக ம.சா.ஆ. 10 யில் காணப்பட்டுள்ளது என்றால் அது சரிதான், 21-9-2008 அன்று

திருத்தணியிலிருந்து காலை 6.20 மணிக்கு கிளம்பி கரைக்கால் அடைந்ததாக காணப்பட்டுள்ளது. என்று சொன்னால் அது சரிதான். ம.சா.ஆ. 10 யில் 16-9-2008 முதல் 19-9-2008 வரையிலும் திருப்பதி செல்ல பர்மிட் பெறப்பட்டுள்ளது என்றால் அது சரிதான். இன்னொரு அனுமதியில் 19-9-2008 முதல் 21-9-2008 வரைக்கும் திருப்பதி செல்ல பர்மிட் பெறப்பட்டுள்ளது. என்றால் அது சரிதான்...”.

From the above evidence, it is clear that petitioner had admitted the fact that he joined in the respondent establishment only in the month of February-2005 and the petitioner has admitted that the signature in the Ex.R2 - alleged acceptance of resignation letter is of himself. But, he has stated that he has not given any resignation letter. No evidence is let in by him that he has signed in several papers while he was appointed. It is not the case of the petitioner that he has given consent to Voluntary Retirement Scheme to the respondent management and entered settlement with the respondent establishment.

15. The documents filed on the side of the petitioner do not disclose that petitioner had been in service in the year 2004, though, the petitioner has pleaded that he had been in service at the respondent establishment from the year 2001. The petitioner has not established the fact that he had joined at the respondent establishment prior to 2005 and the petitioner has admitted that he has joined only in the year 2005 in his evidence and hence, he could not have been in service at the respondent establishment in the year 2004 as a Badli worker and he could not have accepted the Voluntary Retirement Scheme announced in the year 2004 as a Badli worker and hence, he cannot claim compensation as if, he was in service as badli worker in the year 2004 which was given by the management to 156 workers for Voluntary Retirement Scheme.

16. It is the contention of the petitioner that he has not given any resignation letter to the respondent management and the respondent management has prepared the resignation letter from several signatures obtained in the blank paper by the management at the time of appointment and to prove the same he has let evidence through PW2 that he was a driver in a trip from Karaikal to Tirupathi from 16-09-2008 to 19-09-2008 and has exhibited trip sheet and other documents. The evidence of PW2 in his cross examination runs as follows :

“மசாஆ 10-யில் உள்ள கடிதம் நான் கொடுத்து தான் மனுதாரர் மில்லில் வேலை பார்த்தேன். தற்போது நின்றுவிட்டேன். என்று என்னிடம் வேலை கேட்டார். நான் வேலை கொடுத்தேன். தற்போது என்னிடம் பார்க்கவில்லை நான் வண்டியை விற்றுவிட்டேன். மசாஆ. 10-ல் டிரிப் நாளில்

19-9-2008-ஆம் தேதி திருப்பதிக்கு புறப்பட்டு காலை 20-9-2008-ஆம் தேதி காலை 4. 30. மணிக்கு சென்றுள்ளார். அதிலேயே காலை 0.15 மணி அளவில் திருப்பதியிலிருந்து கிளம்பி மாலை 6.10 க்கு வந்துள்ளார் என்றால் அந்த டிரிப் ஷீட் எனக்கு சம்பந்தமில்லை. 18-9-2008-ஆம் தேதி காரைக்காலிலிருந்து மாலை 6.00 மணிக்கு திருப்பதி கிளம்புவதற்கு எனக்கு பர்மிட் இல்லை என்றால் உண்டு. எனக்கு 16-9-2008-ஆம் தேதி காரைக்காலிலிருந்து திருப்பதிக்கு கிளம்புவதற்கு பர்மிட் போக்குவரத்து அதிகாரி வழங்கியுள்ளார் என்றால் அது சரிதான். 16-9-2008-ஆம் தேதி போக்குவரத்து அதிகாரி கொடுத்த பர்மிட்டில் 16-9-2008-ஆம் தேதி காரைக்காலிலிருந்து கிளம்பி திருப்பதி சென்று 18-9-2008-ஆம் தேதி திரும்ப காரைக்கால் வருவதற்காகதான் பர்மிட் வழங்கப்பட்டுள்ளது .”

From the above evidence, it is clear that even prior to the trip the petitioner has asked job to the PW2 Manickam stating that he has left his service from the Mill and it is also admitted by PW2 that permit was given to his vehicle which was alleged to have been driven by the petitioner only for the period 16-09-2008 to 19-09-2008 and he has stated that he could not say when the petitioner returned from Tirupathi. The evidence of PW2 would go to show that PW2 also has not denied the fact that petitioner could not be present on 19-09-2008 at the respondent establishment. Therefore, the evidence of PW2 is not supported the evidence of the petitioner PW1.

17. Further, the trip sheet can be created as if, the petitioner had driven the vehicle though somebody would have driven the vehicle on the said date and that this trip sheet document alone is not sufficient to prove that the petitioner was actually engaged by PW2 and actually driven the vehicle to Tirupathi on the said date and furthermore, the petitioner has admitted the signature in the resignation acceptance letter which was exhibited under Ex.R2 and the signature in the resignation letter which was exhibited as Ex.R3 and that these documents would go to show that the petitioner has resigned his job and left the respondent establishment and subsequently, he has raised the industrial dispute before the Conciliation Officer.

18. Furthermore, on perusal of reference, it is clear that the reference has been made to this Tribunal to decide whether the petitioner is entitled for the wages on par with other Badli workers settled during 2004. But, the petitioner has claimed reinstatement and backwages in his claim statement and he has not asked any wages on par with the Badli workers settled during 2004 in his claim statement. Therefore, the relief of reinstatement with backwages prayed by the petitioner is not sustainable and as such, the relief cannot be granted to the petitioner as prayed in the claim statement. Furthermore, it is an admitted fact that

petitioner has stated in his evidence that he had been in service from 01-02-2005 till 18-08-2008 *i.e.*, for 43 months and hence, he is not entitled for any gratuity since for entitlement of gratuity the worker has to be in service not less than 5 years and that therefore, it is to be held that the industrial dispute raised by the petitioner against the respondent management seeking final settlement on par with other Badli workers settled during 2004 for his total service is unjustified and as such, the petition is liable to be dismissed.

19. In the result, the petition is dismissed and industrial dispute raised by the petitioner against the respondent management seeking final settlement on par with other Badli workers settled during 2004 for his total service is unjustified. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 23rd day of November, 2017.

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

List of petitioner's witnesses:

PW.1 —26-10-2010— Kamaraj

PW.2 —19-12-2011— Manickam

List of petitioner's exhibits:

Ex.P1 —24-09-2008 — Copy of the letter given by the petitioner to the Labour Officer, Karaikal.

Ex.P2 —22-01-2009 — Copy of the letter given by the petitioner to the Labour Officer, Karaikal.

Ex.P3 —11-02-2002 — Nedungadu Post Office Savings Bank Passbook of petitioner.

Ex.P4 —10-02-2003 — Lakshmi Vilas Bank Savings Bank Passbook of petitioner.

Ex.P5 —13-01-2009 — Copy of reply given by the respondent management to the Labour Officer (Conciliation), Karaikal.

Ex.P6 —04-06-2009 — Copy of reply given by the respondent management to the Labour Officer (Conciliation), Karaikal.

Ex.P7 —02-07-2008 —(i) Nedungadu Dispensary referral slip.

—16-08-2005—(ii) Copy of benefit payment slip of ESIC.

—13-08-2005—(iii) Copy of accident report along with form ESIC-32 given by respondent management in respect of petitioner.

Ex.P8 —01-02-2005 — ESI family card of the petitioner.

Ex.P9 — March, May — ISI card of the petitioner. & August-2008

Ex.P10—20-01-2009—(i) Letter given by Valumanickam to the Labour Officer, Karaikal.

—19-09-2008 —(ii) Trip sheet for contract carriage.

—17-09-2008 —(iii) Trip sheet for contract carriage.

—16-09-2008 —(iv) Form P.sp-Special permit in respect of as contract carriage.

18-09-2008 —(v) Form P.sp-Special permit in respect of as contract carriage.

List of respondent's witness:

RW1 —12-12-2012— John Amalraj

List of respondent's exhibits:

Ex.R1—19-3-2005 — Copy of nomination and declaration Form given by the petitioner to the respondent management.

Ex.R2—19-09-2008— Signature of petitioner in letter regarding acceptance of resignation of petitioner by respondent management.

Ex.R3—19-09-2008 —Copy of resignation letter given by petitioner.

Ex.R4 —19-09-2008— Copy of letter regarding acceptance of resignation of petitioner by respondent management.

Ex.R5—24-09-2009— Copy of notice of remarks by Labour Officer (Conciliation) along with complaint given by petitioner.

Ex.R6—13-01-2009— Copy of reply given by respondent management before the Labour Officer (Conciliation).

Ex.R7— 22-01-2009— Copy of reply given by the petitioner before the Labour Officer (Conciliation).

Ex.R8— 04-06-2009— Copy of reply given by respondent management before the Labour Officer (Conciliation).

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

புதுச்சேரி அரசு

இந்து சமய நிறுவனங்கள் மற்றும் வக்ஃபு துறை

(அரசு ஆணை பலவகை எண் 41/இசுநி./கோ.4/2017,
புதுச்சேரி நாள் 2018 (வருட) சனவரி மீ 16 வ.)

ஆணை

புதுச்சேரி மாநிலம், புதுச்சேரி வட்டாரம், அரியாங்குப்பம் கொம்புன், அரியாங்குப்பம் அருள்மிகு மாரியம்மன், பிள்ளையார் மற்றும் திரௌபதியம்மன் தேவஸ்தானத்திற்கு அரசு ஆணை பலவகை எண் 35/இசுநி./கோ.4/ 2013, நாள் 18-12-2014-ன் மூலம் அமைக்கப்பட்ட அறங்காவலர் வாரியத்தால் நிர்வகிக்கப்பட்டு வருகிறது. இவ்வறங்காவலர் வாரியத்தின் பதவிக்காலம் முடிவடைந்துவிட்டது.

2. இந்நிலையில் மேற்குறிப்பிட்ட திருக்கோயிலை நிர்வகிப்பதற்கு ஒரு புதிய அறங்காவலர் வாரியம் அமைக்க வேண்டியது இன்றியமையாததாகிறது.

3. எனவே, 1972-ஆம் ஆண்டு, புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம், 4-ஆம் பிரிவின்கீழ் வழங்கப்பட்டுள்ள அதிகாரங்களைச் செலுத்தி, மேற்கூறிய திருக்கோயிலுக்கு பின்வரும் ஐந்து நபர்களைக்கொண்ட ஓர் அறங்காவலர் வாரியத்தை அரசு உடனடியாக அமைக்கிறது:-

திருவாளர்கள் :

- (1) தா. கிருஷ்ணமூர்த்தி, .. தலைவர்
த/பெ. தாமோதிரன்,
எண் 67, திரௌபதியம்மன் கோயில் தெரு,
அரியாங்குப்பம், புதுச்சேரி.

- (2) கு. ஆறுமுகம், .. துணைத்
த/பெ. குப்புசாமி,
சுப்புராயப்பிள்ளை வீதி,
அரியாங்குப்பம், புதுச்சேரி.

- (3) வி. தேவநாதன், .. செயலாளர்
த/பெ. விநாயகம்
வீரம்பட்டினம் வீதி
அரியாங்குப்பம், புதுச்சேரி.

- (4) சீ. பாபு (எ) சிவநேசன், .. பொருளாளர்
த/பெ. சீனுவாசன்,
எண் 68, சுவாமிநாத நாயக்கர் தெரு,
அரியாங்குப்பம், புதுச்சேரி.

- (5) மு. வீராசாமி, .. உறுப்பினர்
த/பெ. முனுசாமி,
எண் 22, பழைய கடலூர் ரோடு,
அரியாங்குப்பம், புதுச்சேரி.

4. புதிய அறங்காவலர் வாரியத்தினர் உடனடியாக திருக்கோயிலின் பொறுப்புகளை அதன் அசையும், அசையாச் சொத்துக்கள் மற்றும் இதர ஆவணங்களுடன், ஏற்றுக்கொள்ளுமாறு அறிவுறுத்தப்படுகிறது.

5. 1972-ஆம் ஆண்டு, புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம் மற்றும் அதன்கீழ் இயற்றப்பட்ட விதிகளுக்குட்பட்டு அறங்காவலர் வாரியத்தினர் திருக்கோயிலை நிர்வகிக்கக் கடமைப்பட்டவர்களாவர். மேலும் நிர்வாகத்தினர் கடைப்பிடிக்க வேண்டிய சில முக்கியப் பணிகள் கீழே கொடுக்கப்பட்டுள்ளன-

(i) கோயிலுக்குச் சொந்தமான காலி மனைகள், கோயிலை சுற்றியுள்ள இடங்கள் மற்றும் கோயில் குளங்களை தூர்வாருதல்/சுத்தம் செய்தல் இவைகளை உள்ளடக்கிய ஓர் ஆண்டறிக்கையினை சமர்ப்பித்தல் வேண்டும்.

(ii) நன்கொடையாளர்களால் மேற்கொள்ளப்படும் பணிகளை நிறைவேற்ற முழு மூச்சுடன் ஈடுபடுத்தல் வேண்டும்.

(iii) ஒவ்வொரு வருடத்திற்குமான உத்தேச வரவு செலவு கணக்குகளை மார்ச் மாத காலத்திற்குள் சமர்ப்பித்தல் வேண்டும்.

(iv) கோயில் வரவு, செலவு கணக்குகளை முறையாக பராமரித்தல் மற்றும் அக்கணக்கினை ஆண்டுக்கு ஒருமுறை கணக்கு மற்றும் கருவிலகத்துறை மூலம் தணிக்கை செய்தலை உறுதி செய்யவேண்டும்.

(v) அறங்காவலர் தங்கள் கடமைகளையும் பொறுப்புகளையும் இந்து சமய ஆலய விதிகள், 1975 பிரிவு 5-ன் படி செவ்வனே நிறைவேற்றுதல் வேண்டும்.

6. அறங்காவலர் வாரியத்தின் பதவிக்காலம் இவ்வரசாணை பிறப்பிக்கப்பட்ட தேதியிலிருந்து மூன்று ஆண்டுகள் ஆகும். இதற்கிடையில் அரசு அவர்களை நீக்கினால் தவிர அல்லது தகுதி இழக்கச் செய்தால் தவிர அல்லது வாரிய உறுப்பினர்கள் தங்கள் பதவிகளை இராஜினாமா செய்யுங்கால் அவர்களின் இராஜினாமாவை அரசு ஏற்றுக்கொண்டால் தவிர, வாரியம்/வாரிய உறுப்பினர்கள் பதவியில் இருப்பதாக கருதப்படும்.

(துணைநிலை ஆளுநரின் ஆணைப்படி)

பா. தில்லைவேல்,
அரசு சார்புச் செயலர் (கோயில்கள்).