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GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT

(G.O. Rt. No. 181/Lab./AIL/T/2017,
Puducherry, dated 27th December 2017)

NOTIFICATION

Whereas, the award in I.D.(T) No. 01/2013, dated 13-10-2017 of the Industrial Tribunal, Puducherry in respect of the industrial dispute between Omkar Fine Organics Employees Union, Puducherry and the management of M/s. Omkar Fine Organics Private Limited, Puducherry over termination, refusal of employment, unfair labour practice and change of service condition has been received;

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

Friday, the 13th day of October 2017.

I.D. (T) No. 01/2013

Omkar Fine Organics Employees Union,
Rep., by its President,
Reg.No. 1702/RTU/2012,
No. 40, Selva Nagar,
Pillaiyar Kovil Street,
Uruvaiyar, Mangalam Post,
Puducherry.

. . Petitioner/
Trade Union

Versus

M/s. Omkar Fine Organics Private Limited,
Rep., by its Managing Director,
No. 22/2, Mangalam Road,
Uruvaiyar, Villianur Commune,
Puducherry-605 110.

. . Respondent/
Management.

This industrial dispute coming on 19-09-2017 before me for final hearing in the presence of Thiruvalargal P. R. Thiruneelakandan and A. Mithun Chakkaravarthy, Counsel for the petitioner, Thiru S. Savariram, Counsel 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. 228/AIL/Lab./J/2012, dated 21-12-2012 for adjudicating the following:-

(i) Whether the charter of demand over wage revision, regularisation, protection of service condition, implementation of safety measures *etc.*, is justified or not? If justified what relief they are entitled?

(ii) Whether the termination of K. Elumalai, P. Prabu, A.Harikrishnan, J. Arul, G. Sasikumar, K. Venkatesan, M.Iyyappan and A. Ilayaperumal is justified or not ? If not justified what relief they are entitled?

(iii) Whether the refusal of employment to the following union workmen namely R. Arivaradhan, N. Saravanakumar, M. Soundarapandian, A.Baskar, B. Murugaiyan, G.Dasarathan, M. Murugan, G. Suresh, S. Anbu, C.Ramesh is justified or not? If not justified what relief they are entitled?

(iv) Whether the management adopted any unfair labour practice under schedule V of the Industrial Disputes Act? If so what remedy they are entitled?

(v) Whether the management violated the provisions of section 33 of the Industrial Dispute Act? If so what relief they are entitled?

(vi) 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 :

(i) It is stated that the respondent factory is a chemical industry, manufacturing fragrance and flavours. It was established and commenced its operation in the year 1993. Ever since the petitioner union members are employed in the respondent factory as workmen. There were 45 permanent employees including the petitioner union members employed in the respondent factory in day

to day manufacturing activities. They were paid meager wage and extracted more than 8 hours of work in a day and no overtime wage was paid and there was no periodical wage increase, and other allowances increased as time to time as increased in other factory in that region. None of the safety measure usually followed by the chemical industry has been followed and welfare measures provided under the labour laws are totally denied. The respondent exploited the workers taking advantage of their poverty. The petitioner and the other workers were not even given written appointment order and while so to protect their legal rights the workers formed their trade union. The said union raised charter of demand for wage revision and other allowances. During 2009 the management terminated all the members of the trade union numbering 20 workmen without any reason. As against the said illegal termination the said workers approached the Labour Officer, Conciliation, since there was no action the said workers approached the Hon'ble High Court by filing Writ petition No. 9724 of 2009. While pending the said dispute before the Conciliation Officer and Writ petition, the respondent settled 18 workers out of 20 workers.

(ii) It is further stated that the Hon'ble High Court *vide* its order, dated 03-07-2012 directed the Government to refer the dispute regarding the issue of non employment of the remaining 2 workers to the Labour Court. In the year 2010, another batch of workers numbering 8 who demanded wage increase and other allowances also were removed from service and they were not allowed to enter into the premises of the factory. The said workers agitated against their illegal termination and then they were given settlement. The remaining 18 permanent workers demanded the respondent management for wage revision, other allowances, protection of service conditions and implementation of safety measures to avert the accident occur while handling the hazardous chemicals. The respondent did not pay any heed to the demands of the workers and had not even come forward for negotiation. Hence, the workers decided to form a trade union to address and resolve their grievances. Since the respondent did not want the workers to form any trade union in its factory made a complaint before the Conciliation Officer as against the workers who took active role in formation of trade union namely, N. Saravanakumar, G.Suresh, M. Soundarapandian, G.Thasaradan, M.Iyappan, Arivaradhan, A. Baskar as there was a labour unrest in the respondent factory.

The conciliation took the said dispute and issued notice, dated 22-07-2011. The said workers formed a trade union on 11-03-2012 in the name and style of "Omkar Fine Organics Employees Union" and on 24-04-2012 the said workers submitted an application in Form-A before the Registrar of Trade union, Puducherry for registration of Trade union. Since, the respondent did not want the workers to form any trade union in its Factory decided to victimise the workers issued a false and frivolous charge memo against them.

(iii) It is further stated that the petitioner union members made a complaint, dated 09-04-2012 and 12-04-2012 to the Conciliation Officer about the victimisation and unfair labour practice of the respondent management and sought for protection of their service condition. On 07-05-2012 the petitioner union raised an industrial dispute over the charter of demand before the Conciliation Officer, while pending the said dispute the respondent without approval of the Conciliation Officer terminated and denied employment to all the members of the petitioner union and engaged north Indian contract workers mostly from Orissa State in manufacturing activities, which was opposed by the petitioner union and raised an industrial dispute on 25-09-2012 over the issue of appointment of contract workers in the place of permanent workers and also preferred a complaint, dated 25-09-2012 against the respondent management for unfair labour practice and also made a complaint under section 33(A) of the Industrial Disputes Act against the termination, denial of employment of the petitioner union members service pending dispute before the Conciliation Officer. Further, the petitioner union raised an industrial dispute over the illegal termination, denial of employment of its members. The conciliation ended in failure and the dispute has been referred for adjudication before this Court. The petitioner prayed this Court to pass an Award holding that the charter of demand of the petitioner are justifiable and revise the wage of the petitioner union workers and also holding that the termination of service of petitioner union members are illegal and violation of section 33 of the Industrial Disputes Act and unfair labour practice under schedule V of the Industrial Disputes Act and set-aside the same and direct the respondent to reinstate the petitioner union members in their service with continuity of service, full back wage and all other attendant benefits with effect from the date of their respective termination of service.

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

(i) The respondent management stated that the I.D. No. 1/2013 is neither maintainable in law nor in facts and as such liable to be dismissed and denied all the allegations mentioned in the claim statement of the petitioner and stated that all the allegations are false, frivolous and vexatious contentions further there has been suppression of material particulars/truth, therefore the claim statement is nothing but mere abuse of process of law and misuse of judicial machinery therefore, the claim petition in I.D. No. 1/2013 is liable to be dismissed and further stated that the alleged reference made by the petitioner before the Labour Officer (Conciliation) under the pretext of industrial disputes such as protection of employment, unfair labour practice, illegal termination, denial of employment against the respondent as well as complaint under section 33 (A) of the Industrial Dispute Act are false, frivolous and vexatious and that the alleged disputes taken on file by the Conciliation Officer as I.D. Nos. 960/LO(C)/AIL/2012, ID.No.1924/LO(C)/AIL/2012, ID. No. 2624 / LO(C) / AIL / 2012, ID.No. 2623/LO(C)/AIL/2012, are the disputes taken on file based on the false complaints lodged by the petitioner with an ulterior motive and intention to spoil good atmosphere in the factory and thereby committing serious misconduct with the management and they did not perform their duties and are only indulging in creating sabotage/ industrial unrest inside the factory premises resulting heavy loss of production and therefore the reference mentioned in page No. 2 (I to VI) of the claim statement is one imaginary and created and the failure report, dated 14-12-2012 cannot taken into account for any purpose whatsoever.

(ii) It is further stated that their company is a private limited company registered as per the provisions of the Companies Act and the respondent company's basic manufacturing products are Flavours and Fragrance Chemicals (Plant extracts etc.,) which are auxiliaries and ancillaries in food processing and the products are supplied to global companies in India and in abroad and those products are highly demand in the market because of the fact the standard of quality given by the respondent company and compete with their products in the international market and at present there are

30 employees are working in the factory including 6 women employees and in addition to the safety measures and equipment's providing by the respondent company the respondent also providing insurance coverage's to all the employees for a minimum sum of ₹ 1 lakh to maximum sum of ₹ 5 lakh, depending upon the earning capacity of the employees arising out and in the course of employment and they are also providing 12% Provident Fund to the employees for the total sum drawn including all categories and for casual employees the company is maintaining the attendance register, for usual employees the management use to give appointment letters.

(iii) It is further stated that N. Saravana Kumar joined in the company on 11-01-1995 and became Officer-Works and costs in the year 2009, M. Soundarapandian joined in the company on 29-02-1995 and became the Executive Officer-Industrial Procurement Cum Production in the year 2009 and R. Arivaradhan joined in the company on 22-06-1993 and became Executive Officer-Commercial-cum-Development in the year 2009 and during the month of April, 2012 the above mentioned three Officers received a monthly salary of ₹ 8,525, ₹ 10,065 and ₹ 10,245 respectively and infact the respondent company gave increment to the above mentioned persons during the month of May, 2012 with retrospective effect starting from the month of January, 2012 however, the above mentioned persons refused to receive the same and as such returned un-served and further stated that the Trade Union Certificate *vide* No.1702/RTU/2012, dated 24-08-2012 has been issued by the Registrar of Trade Union for Government of Puducherry in contravention of section 4 of the Trade Union Act for the reason that out of 7 members the above mentioned 3 persons are officers of the respondent management and they cannot be coined as workmen as contemplated under section 2 (s) of the Industrial Disputes Act and the salary they are received from the respondent management cannot be termed as wage as contemplated under section 2 (rr) of the Industrial Disputes Act and the other persons mentioned in the list of officers namely, S. Suresh, G. Thasaradhan are temporary workers and M. Iyappan is a casual worker and A. Bhaskar is a permanent worker of the respondent company and therefore, the very registration of Trade Union itself is under challenge and as such the petitioner cannot

get any relief whatsoever in the present industrial dispute since, the provisions of the trade Unions Act and industrial disputes Act are violated by the petitioners and they simply approach the LO (C) on their whims and fancies and act of surmises which is against to law and procedure.

(iv) It is further stated that under section 12(3) of the Industrial Dispute Act settlement has been arrayed between the respondent management and 16 workers of the respondent company *vide* No. 2/LO (C) 2010 AIL, dated 29-03-2010 and despite the fact settlement has been arrived the Labour Officer (Conciliation) without apply her mind submitted failure report to the Government and referred the matter to this Court in I.D (T). No. 3/2013 and thereafter, the entire facts has been brought and the said I.D.No. 3/2013 was dismissed by order, dated 20-06-2013 and that the alleged Trade Union was registered only on 24-08-2012 and that there is no permanent workmen in the company the petitioner could not make out a Trade Union as prescribed under law and further stated that certain trainee employee in the company namely B. Senthikumaran, S. Selvamani and K. Haridoss had committed serious misconduct with the respondent management therefore, the respondent management had issued show cause notice, dated 08-11-2010 to the above mentioned persons and after receipt of objections from them domestic enquiry was initiated and since the charges are proved as against them the respondent has terminated the service of the above persons by its termination orders, dated 23-03-2011 and the same was sent by registered post with acknowledgments and despite the factum of termination order passed the above mentioned persons high handily threatened the respondent management and its management including the employees and as such the respondent company had filed a suit in O.S. No. 642/2011 on the file of Hon'ble Principal District Munsif, Puducherry for the relief of permanent injunction and the same was decreed as prayed for by Judgment and decree and despite decree granted as against the above-mentioned persons they did not kept quite on the contrary they instigating the other loyal employees so as to create problem in the respondent company thereby the smooth functioning of the company is spoiled by the other Officers namely, M. Soundarapanidan, N.Saravakumar and Arivaradan since they are having close relationship with the said terminated persons and dancing according to their tunes resulting non performing their duties in the company ultimately affected production in the goods.

(v) It is further stated that in the mean time the said persons namely M. Soundarapanidan, N. Saravakumar and Arivaradan along with some trainees in the respondent company submitted an alleged representation before the Labour Officer (Conciliation), Government of Puducherry on 09-04-2012 with false and frivolous allegations and sought for an enquiry and that on 19.04.2012 Labour Officer (Conciliation) forwarded the said representation, dated 09-04-2012 and 12-04-2012 and called the respondent company to give explanation and that on 26-04-2012 the company had submitted detailed objection pin pointing the petitioner's illegal act to the Labour Officer (Conciliation) and that on 25-06-2012 reply statement also filed by the management refuting the allegations of the above mentioned persons and filed a suit in O.S. No. 1121/2012 on the file of III Additional District Munsif, Puducherry as against the defendants therein for the relief of Permanent Injunction. The respondent also filed a petition for an ad-interim injunction in I.A. No. 2054/2012 in O.S. No. 1121/2012 restraining the above mentioned persons interference in the factory premises and for other reliefs. On merits the said application was decided and as such the III Additional District Munsif allowed the interim injunction as prayed for by Order and Decreetal order, dated 06-12-2012. The said persons did not prefer any Appeal or Revision as the case may be till date. Since the workers continues their misconduct in the factory without any legal or factual basis the respondent company issued a notice, dated 06-04-2012 to the defendants and informing the anti-activities of the workers against the management and thereby advised the workers to safe guard the interest of the company for the benefits of all concerned and despite the notice if, no improvement seen serious action will be initiated by the respondent. Since the workers wanted Tamil version of the above notice the same was considered by the company and issued Tamil version to the workers. In the mean time the workers along with some trainees in the company submitted an alleged representation before the Labour Officer (Conciliation), Government of Puducherry on 09-04-2012 with false and frivolous allegations and sought for an enquiry which forwarded to the respondent management sought for explanation by the Labour Officer (Conciliation).

On 26-04-2012 the respondent submitted detailed objection pin pointing the worker's illegal act to the Labour Officer (Conciliation), Government of Puducherry. At this juncture the workmen started alleged trade union without giving any intimation to the respondent.

(vi) It is further stated that before taking actions as against the workers the casual and temporary the respondent followed the procedure of law. Elumalai, Prabu, Harikrishnan, Arul, Sasikumar, Venkatesan, Iyappan, Ealayaperumal are all temporary and Casual workers. M. Iyyappan, K. Venkatesan, K. Elumalai, A. Harikrishnan are removed for not working in the strike period. Arul was suspended along with Anbu and Ramesh for creating bogus data logging. Sasikumar refused to carry out alternate work in May, 2012 suspended pending enquiry. Ealayaperumal name removed from attendance for abandoned the job for more than 2 months without any intimation. R. Arivaradhan, N. Saravankumar, M. Soundarapandian are restrained by virtue of the order and Decreetal order, dated 06-12-2012 passed in I.A. No. 2054/2012 in O.S. No. 1121/2012 on the file of III Additional District Munsif, Puducherry. Infact N. Saravankumar attained superannuation from his service. A. Baskar, V. Murugaiyan, G. Thasathan and Murugan are left the job on their own and joined in some other companies. G. Suresh, S. Anbu, C. Ramesh are suspended for their legal act. The charge-sheet was given to the respective workers and they did not participated in the enquiry conducted and they left from the company on their own. Elumalai, Prabu and Harikrishnan are casual workers and as such the provision of Industrial Disputes Act and Traded Union Act will not applicable to them and consequently they are arrayed as Office bearers in the trade union is also yet another falsity against to the provisions of the Trade Unions Act. The charge sheet furnished to J. Arul, Anbu and Ramesh called for explanation the respondent management fixed time for enquiry and three time notice were sent to them despite above factum they failed to participate in the enquiry and as such further orders has been passed as per law and procedure. G. Sasikumar, Venkatesan and Baskar refused to discharge their duties as directed by the management so as to continue the process of production but they deliberately not complied the demands of the respondent but, idly they are present inside the company without doing any work for

several days further except Baskar and other persons are temporary and casual workers. Baskar was suspended for retaining the company property *i.e.*, Motorcycle and refused to handover infact FIR was registered by the Mangalam Police so as to confiscate the motorcycle. Since Ealayaperumal and Iyyappan are temporary workers/trainees in view of continuous absent their name were removed from the attendance register, infact they joined some other companies without intimation to the respondent management.

(vii) It is further stated that Arivaradhan, Saravankumar, and Soundarapandian are office bearers ranks of the respondent company they received salary more than 10 thousand per month and they are not categorised as workman as per the definition of workman. Since they are induced other workmen and loyal workers from discharging their duties and committed serious misconduct with the management and they are not performing their duties and are only indulging in creating sabotage/ industrial unrest inside the factory premises and as such by virtue of Injunction Order passed on 06-12-2012 in I.A. No. 2054/2012 in O.S. No. 1121/2012 on the file of III Additional District Munsif, Puducherry they are resting from the factory premises. Mr. Saravanakumar attained retirement on 30-06-2013. The above mentioned 3 persons did not work inside the factory as stipulated to discharge their duties on the contrary they inducted other workers to go for strike for a period of 8 months and during that period no production was made and as such the question of paying salary for this period will not arise under the dictum of law "No work No pay" since eight months there was no production in the company resulting huge monetary loss to respondent company including cancellation of all orders from the market.

(viii) It is further stated that G.Thasaradhan left job from the company on his own and he is only temporary worker/ trainee. No registered trade union particular was submitted by the petitioner at any point of time. Infact the respondent came to know the alleged Trade Union registration only in O.S. No. 1121/2012 filed by the respondent as against Arivaradhan, Saravankumar, and Soundarapandian. The company did not violate any laws on the contrary, the respondent company is

maintaining harmonious relationship with its customers, employees, local villagers and the Government of Puducherry. The company is transparent in Labour relations in general by following all the statutory enactments in letter and spirit without violating any of the labour provision. The names mentioned above are casual and temporary workers therefore, the question of reinstatement with full back wages does not arise for any purpose whatsoever. The workmen un-necessarily making false propaganda and false statements before the public as well as statutory bodies without any basic evidence and published false statement in the newspapers so as to degrade the goodwill of the company which is against to law and procedure.

4. The brief averments in the rejoinder statement filed by the petitioner are as follows:

The petitioner union denied all the allegations made in the counter filed by the respondent management except those that are specifically admitted and stated that the petitioner union members have been continuously serving in the respondent factory for about 5 to 20 years length of service without any break. But, they were not even issued appointment order. Except few workers most of the workers were not even paid ESI, PF contribution and they were paid very meager wage despite extracting heavy works for more than 8 hours in a day. The petitioner union members joined together and formed petitioner trade union and then demanded the respondent to confirm their service and revise their wage, other allowances at least on par with the other Industrial workers in that region. The respondent did not wish to consider the demand of the petitioner union members on the other hand they decided to terminate the service of the petitioner union members for their union activity. As a result of which all of the petitioner union members were denied employment in the year 2009, 2010 on false, frivolous allegation without any enquiry. After they were denied employment and their service were terminated there is no permanent employees employed in the respondent factory and the respondent running the factory with help of the North Indian contract workers mostly migrated from the State of Orissa, despite the Government banned the engagement of contract workers in the Chemical Industries. The respondent without adhering the Government order and in gross violation of the Act and Rules has engaged unqualified contract workers in the direct manufacturing process. Therefore, at present 30 employees employed

in the factory is false. The respondent has not maintained the muster roll of the workers and separate registers for workers as required under the factories Act and Rules made there under, so as to engage the North Indian contract workers. The workers were not even given appointment order, only few workers who had completed 10 to 15 years of their service, sought for appointment order were alone issued appointment order. The rest of the workers were not given any appointment order, despite they have been continuously working in the respondent factory for several years. The union was duly registered in accordance with law under the Trade Union Act, 1926. The petitioner union members namely M. Saravanakumar, M. Soundarapandian, R. Arivaradhan are workmen and they are not Executive Officer and they have been paid the current average wage of ₹ 8,000 to ₹10,000 after their long service of more than 15 years. The termination of batch of workers in 2010 and another batch of workers numbering 8 are all matter of record and it cannot be disputed.

5. In the course of enquiry on the side of the petitioner PW.1 was examined and Ex.P1 to Ex.P142 were marked and on the side of the respondent RW.1 was examined and Ex.R1 to Ex.R33 were marked.

6. The point for consideration is:

(i) Whether the charter of demand over wage revision regularisation, protection of service condition, implementation of safety measures *etc.*, is justified or not and if justified, what is the relief entitled to the union.

(ii) Whether the termination of Thiru K. Elumalai, P. Prabu, A. Harikrishnan, J. Arul, G. Sasikumar, K. Venkatesan, M. Iyyappan and A. Ilayaperumal and the refusal of employment to the following union workmen namely, R. Arivaradhan, N. Saravanakumar, M. Soundarapandian, A. Baskar, B. Murugaiyan, G. Dasarathan, M. Murugan, G. Suresh, S. Anbu, C. Ramesh are justified or not and if not justified, what is the relief entitled to them.

(iii) Whether the management adopted any unfair labour practice under schedule V of the Industrial Dispute Act and violated the provisions of section 33 of the ID Act and if so, what is the remedy and relief entitled to them.

7. 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 the side of the respondent, the written argument was filed and the same is carefully considered.

In support of his case the learned Counsel for the respondent has relied upon the Judgments reported in (1999) AIR SC 1441, (2008) 6 MLJ 626, Supreme Court of India- Himanshu Kumar Vidyarthi and Others Vs. State of Bihar and Others, dated 26-03-1997 and W.P. No. 3976 of 2004.

8. Discussion and Decision on Point No.1:-

From the pleadings of both the parties it is clear that the workers of the respondent establishment formed a union and the petitioner union has raised the industrial dispute over charter of demands to revise the wages and other monetary benefits and they have also raised the industrial dispute and they have moved to Hon'ble High Court seeking an order directing the Conciliation Officer to send the failure report to the Government and various correspondences were taken place between the members of the union and the respondent management and number of employees were suspended and disciplinary proceedings was initiated by the respondent establishment and memos were given and subsequently they have been terminated from service against which the industrial dispute has been raised by the employees and the conciliation was failed and the case has been referred to this Court.

9. It is the evidence of the PW.1 Saravana Kumar that their union is a registered one and employees are working for not less than 5 years and about 20 years continuously at the respondent establishment which is a chemical industry producing fragrance and flavours and that the respondent has not permitted to form the association and has paid meager wages and the workers have been compelled to work for more than 8 hours and they have denied the revision of wages and they have not provided safety equipments and they have not maintained the factory properly and only with the intention to get profit the management run the factory and even they have not provide purified water and even they have not provided toilet facilities to the workers and that therefore, the workers of the respondent establishment have formed the workers union in the name of Omkar Fine Organics workers union and asked revision of wages and other allowances and submitted the charter of demands with the Conciliation Officer and that therefore 20 workers have been terminated from service without any reason for which they have filed a writ petition before the Hon'ble High Court in W.P. No. 9724 of 2009 and while pending of case the respondent management has settled all the dues to the 20 workers who have been terminated from service and on 03-07-2012 the Hon'ble High Court has passed the order in favour of the workers and that in the

year 2010 eight senior workers who have fought for wage increase and other benefits have been removed from service and they were not allowed to enter the factory and thereafter their dues has been settled and removed from service by the respondent management and that out of 45 workers the respondent management has removed 28 workers from service without any *prima facie* reasons and other 17 workers have treated as slaves and the revision of wages and other allowances have been refused to them by the management and they have been forced to handle hazardous chemical substance and they have been compelled to work for more than 8 hours and they have been given meager wages for their work.

10. It is the further evidence of the PW.1 that because of unsafety condition of service the workers namely Iyyappan and Baskar were affected and sustained injuries and eye sight of the Baskar was affected and he has taken treatment at ESI Hospital and Aravindar Eye Hospital for about 3 months and other workers Anbu, Iyyappan and Ramesh were sustained injuries while using the acid in the reactor and the respondent management has not sanctioned any costs except ESI leave and conceal the above accident without informing to the Inspector of Factories and one worker Soundarapandian while on work has affected in the accident occurred at factory and he has taken treatment at MIOT Hospital as inpatient which was also not informed to the Inspector of factories and that therefore, no safety measure have been provided by the respondent establishment and even they have not given first aid and emergency ambulance service and they have also not obtained proper licence to run the factory which was informed to Inspector of Factories and other Officers and even then they have not obtained licence under the Explosives Act to use the hazardous raw materials and though the respondent establishment has gained 8.9 crores profit in a year, it has given only ₹150 per day as salary to the workers and though the petitioners are working for about 15 years the respondent management has not provided benefits to the workers.

11. In support of their evidence the petitioner has exhibited Ex.P1 to Ex.P142. These documents would go to show that petitioner trade union is a registered one and the trade union filed a charter of demands before the Labour Officer Conciliation on 07-05-2012 for revision of wages and the petitioner union members were working at the respondent establishment Omkar Fine Organics Private Limited as a workers and they have contributed ESI and PF by the respondent management and the respondent management has given memo to the Anbu,

Ilayaperumal, Iyyappan, Ramesh, Venkatesan, Arul, Saravanakumar, Soundarapandian, Arivaradhan and most of the employees have suspended by the respondent establishment and the petitioner union has raised industrial dispute before the Conciliation Officer regarding the wage revision and the conciliation was made by the Conciliation Officer and subsequently the union members who were working at the respondent establishment have filed a writ petition before the Hon'ble High Court in W.P. No. 9724 of 2009 for seeking direction to the 1st respondent Conciliation Officer to conclude the conciliation proceedings and to file a report and the Hon'ble High Court has allowed the Writ petition and has directed the Conciliation Officer to conclude the conciliation proceedings and directed 1st respondent Conciliation Officer to file a report within two months from the date of receipt of a copy of the order and thereafter the said union members also have raised the another industrial dispute before the Conciliation Officer on 12-07-2012 to declare the suspension as illegal and to reinstate the petitioner along with back wages and continuity of service and other allowances and also to direct the respondent management not to employ North Indian labourers and to direct the respondent management to regularise all the employees as a permanent workers and it is also learnt from the records that the respondent management has terminated the workman Arikrishnan on 17-06-2012, terminated the workman Arul on 18-07-2012, terminated the workmen Venkatesh and Sasikumar on 01-10-2012.

12. On the other hand, in order to prove the case of the respondent, the Managing Director of the respondent establishment Krishna Baliga was examined as RW.1 and he has stated in his evidence that their company is a private limited company registered as per the provisions of the Companies Act and they are manufacturing Flavours and Fragrance Chemicals which are auxiliaries and ancillaries in food processing and the products are supplied to global companies in India and in abroad and are highly demand in the market because of the quality and that 30 employees are working in the factory and that they have provided welfare measures which are required in the labour laws and apart from the above they have provided safety measures and equipment's and the company is also providing insurance coverage's to all the employees for a minimum sum of ₹ 1 lakh to maximum sum of ₹ 5 lakhs depending upon the earning capacity of the workers and it is the further evidence of the RW.1 that the averments in the claim petition are false and for casual employees the company is

maintaining the attendance register, for usual employees the management used to give appointment letters and the petitioners have formed trade union without following the provisions of law and in contravention of section 4 of the Trade Union Act and that employee N. Saravana Kumar joined in the company on 11-01-1995 and M. Soundarapandian joined in the company on 29-02-1995 and R. Arivaradhan joined in the company on 22-06-1993 and they have received a salary of ₹ 8,525, ₹ 10,065 and ₹ 10,245 respectively for the month of April, 2012 and has given prior increment to the above mentioned persons during the month of May, 2012 with retrospective effect starting from the month of January, 2012 and other persons S.Suresh, G. Thasaradhan are temporary workers and M. Iyappan is a casual worker and A. Bhaskar is a permanent worker of the respondent company and the very registration of trade union itself is under challenge and the trade union certificate issued by the Registrar of trade union for Government of Puducherry in contravention of section 4 of the Trade Union Act for the reason that out of 7 members the above mentioned 3 persons are Officers of the respondent management and they cannot be coined as workmen as contemplated under section 2 (s) of the Industrial Disputes Act and therefore the very registration of trade union itself is under challenge and as such the petitioner cannot get any relief whatsoever in the present Industrial Disputes and that under section 12(3) of the Industrial Disputes Act settlement has been arrayed between the respondent management and 16 workers of the respondent company on 29-03-2010 and despite the fact settlement has been arrived the Labour Officer (Conciliation) without apply her mind submitted failure report to the Government and referred the matter to this Court in I.D(T). No. 3/2013 and thereafter, the entire facts has been brought and the said I.D. No. 3/2013 was dismissed by order, dated 20-06-2013.

13. The RW.1 has further deposed that other allegations made by the petitioner are denied by the respondent and that show cause notice was issued against B. Senthilkumaran, S. Selvamani and K. Haridoss on 08-11-2010 and domestic enquiry was initiated and since the charges are proved against them they have been terminated from service under the termination orders, dated 23-03-2011 which was sent by the respondent management to the petitioners and in the meanwhile the union members have threatened the respondent management and its employees and that therefore, the respondent company had filed a suit in O.S. No. 642/2011 on the file of Hon'ble Principal District Munsif, Puducherry for the relief of

permanent injunction which was decreed as prayed and that the Officers namely M. Soundarapanidan, N. Saravakumar and Arivaradan who are having close relationship with the terminated persons B. Senthilkumaran, S. Selvamani and K. Haridoss were dancing according to their tunes resulting non performing their duties in the company ultimately affected production in the goods and that the petitioner union has raised the industrial dispute before the Conciliation Officer on 09-04-2012 with false and frivolous allegations and sought for an enquiry for which the respondent management has filed a detailed objection pin pointing the petitioner's illegal act to the Labour Officer (Conciliation) and that taking advantage of pendency of conciliation proceedings continuously the petitioners have created problems everyday backed by local politicians, terminated employees and anti-social elements without performing their job for several months and that they have followed the procedure before taking action as against the casual workers and temporary workers and that Elumalai, Prabu, Harikrishnan, Arul, Sasikumar, Venkatesan, Iyappan, Ealayaperumal are all temporary and Casual workers and that M. Iyyappan, K. Venkatesan, K. Elumalai, A. Harikrishnan are removed from service since they are not working in the strike period and Arul was suspended along with Anbu and Ramesh for creating bogus data logging and Sasikumar refused to carry out alternate work in May, 2012 was suspended pending enquiry and Ealayaperumal name was removed from attendance for abandoned the job for more than 2 months without any intimation and that A. Baskar, V. Murugaiyan, G. Thasathan and Murugan are left the job on their own and joined in some other companies. G. Suresh, S. Anbu, C. Ramesh are suspended for their legal act and that J. Arul, Anbu and Ramesh are charge sheeted which was furnished to them and called for explanation by the respondent management and time was fixed for enquiry and three time notice were sent to them despite above factum they failed to participate in the enquiry and as such further orders has been passed as per law and procedure and that G. Sasikumar, Venkatesan and Baskar have refused to discharge their duties as directed by the management so as to continue the process of production but they deliberately not complied the demands of the respondent but, idly they are present inside the company without doing any work for several days and except Baskar other persons are temporary and casual workers and the said Baskar was suspended for retaining the company property *i.e.*, Motorcycle and refused to handover the same and infact FIR was registered by the Mangalam Police so as to confiscate the motorcycle and that since Ealayaperumal and

Iyyappan are temporary workers/trainees in view of continuous absent their name were removed from the attendance register and that Arivaradhan, Saravankumar, and Soundarapandian are Office bearers ranks of the respondent company and they received salary more than 10 thousand per month and they are not categorised as workman as per the definition of workman and that Mr. Saravanakumar attained the age of superannuation on 30-06-2013 and that G. Thasaradhan left job from the company on his own and he is only temporary worker/ trainee and that petitioners have committed misconduct to the management and they are not performing their duties and are only indulging in creating sabotage and industrial unrest inside the factory premises and in support of the case the respondent management has exhibited Ex.R1 to Ex.R33.

14. It is noticed from the documents exhibited by the respondent management that the respondent management has filed a suit before the Additional District Munisf, Puducherry against their workers and they have also filed injunction application and the respondent management has given memo to M. Soundarepandian, N. Saravanakumar, R. Arivaradhan, Baskar and Sasikumar to initiate the disciplinary action against them and subsequently the respondent management has framed charges against Ramesh and the respondent management has suspended workers namely Arivaradhan, Soundarapandian and the respondent management also has sent show cause notice to R. Anbu, C. Ramesh and J. Arul and charge sheet was filed against Anbu and the memo was issued to the worker Suresh and the respondent management has made a police complaint on 12-04-2012 against the workers and earlierly on 03-04-2012 a memo was issued to S. Anbu, Ramesh and Arul and the respondent management has given warning letters to them and several reminder letters was sent by the respondent management to S. Anbu and charge sheet has also issued by the respondent management to S. Anbu and the letter was received by the said Anbu and the respondent management has sent a letter to Soundarapandian to return the company vehicle.

15. Further, the respondent management has also exhibited the salary certificate of the Arivaradhan, dated 18-05-2011 as Ex.R33 which reveals that the said Arivaradhan was earning ₹ 5,000 as basic pay in the Scale of Pay of ₹10,245 for the month of April, 2011 and the said salary certificate also reveals the fact that the petitioner was working from 22-06-1993 at the respondent establishment. From these documents and evidence it is clear that the main contention of the respondent management is that the petitioners are not

working properly and they have committed misconducts and misbehavior for which charges have been framed and enquiry was conducted and they have been removed from service in respect of permanent employees but, in respect of casual and temporary employees the charge sheet has been given and they have terminated from service on the non satisfaction of the explanation given by them.

16. The conciliation failure report is exhibited as Ex.P134. The following facts are noticed from the failure report that the petitioner union has raised the industrial dispute on 09-04-2012 against the respondent management over wage revision, regularisation, safety measures, medical benefits, non-employment, protection to their union workmen against rowdy element, unfair labour practice and further, it is learnt from the conciliation failure report it is the allegation of the union that the respondent management has victimised the union workmen whoever formed the trade union in their industry and the workers of the respondent establishment to protect their legal rights have formed trade union and without stating any reason the respondent management has terminated all the union workmen during 2009 from the service and during the course of conciliation the management has not appeared for several hearings and it was advised by the Conciliation Officer to the respondent management to provide employment and regarding the issue of misconduct, if any it would be only dealt based on the principles of natural justice and it is also learnt from the conciliation failure report that it was also advised to the respondent management by the Conciliation Officer that while the industrial dispute over charter of demands such as wage revision, regularisation, protection of service condition, safety measures in the industry *etc.*, pending before the Conciliation Authority the termination or refusal of employment change of service condition *etc.*, is not fair in the eye of law and is against the principles of natural justice and further, it was also advised to the management that the engagement of contract labour as alleged by the union in the place of terminated workmen is not fair and the management was also instructed to produce the records pertains to the Register of employment, Provident Fund, ESI *etc.*, but the management not produced any records for verification stating that they are not available and since the respondent management has not appeared for several hearings and not interested for amicable settlement the conciliation was failed and the dispute has been referred to the Tribunal. The Conciliation Officer himself has framed the issues that whether the charter of demands over wage revision, regularisation,

protection of service condition, implementation of safety measures, *etc.* is justified and whether the termination, suspension and refusal of employment to eighteen union workmen is justified while pendency of the industrial dispute, whether the management adopted any unfair labour practice under schedule V of the Industrial Dispute Act and whether the management violated the provisions of section 33 of the Industrial Dispute Act.

17. From the Conciliation failure report, it is clear that the petitioner workmen have raised the industrial dispute for wage revision, regularisation, safety measures, medical benefits, non-employment, protection to their union workmen against rowdy element, unfair labour practice as early as on 09-04-2012 against the respondent management and that therefore, it is to be decided that whether the charter of demands over wage revision, regularisation, safety measures, medical benefits, non-employment, protection to their union workmen against rowdy element, unfair labour practice is justified or not. On this aspect, the evidence and exhibits are carefully considered. The petitioner has not at all exhibited any document to prove that how much salary was received by them and how much is required to be revised by exhibiting the salary certificate of any other industry in region who are doing the same type of work. No document is exhibited by the petitioner union that how much salary was received by them and how much of wages is to be revised and failed to prove that how they are entitled for the same. The charter of demand raised by the petitioner union against the respondent management is exhibited as Ex.P21 which was submitted to the Conciliation Officer by the union on 09-04-2012 wherein the petitioner union has stated that the respondent management has not regularized the workers who have served for about two years and the respondent management has not provided safety equipments, safety measures and the salary of the permanent workers also has not been revised by the respondent establishment and the workmen sustained injuries while using chemical acid in the industry.

18. Though the petitioner union has exhibited Ex.P1 to Ex.P142 no document is exhibited to reveal the fact that how much salary was paid by the respondent management to the petitioner workmen. However, it is clear from the charter of demands that there is no equipments were provided for the safety measures. Since the respondent management is doing production of goods by using chemicals, it is just and necessary to provide the safety equipments and the respondent management also has to take safety measures and therefore, as far as the charter of demands the claim of the petitioner to revise the wages cannot be decided

since nothing is before this Court whether it is revised or not that is the petitioner has not exhibited any documents to prove the fact that how much is paid by the respondent management as wages to the workers and how much was paid by other similar industries to the workers doing the same nature of work and therefore, this Court cannot decide whether the wage revision is essential or not and further it is not established by the petitioner union that they have been paid lesser wages than the minimum wages and they have failed to establish that similar industries are paying more than the wages being paid by the respondent establishment. Nothing is before this Court to decide whether the salary of the petitioner union members is less than the salary of similar industry or wages being paid by the respondent management is lesser than the minimum wages for the said period.

19. However, in respect of other demands such as protection of service condition and implementation of safety measures *etc.*, absolutely necessary to the industry since admittedly they are using the hazardous materials and acid in the industry and that therefore, it can be held that the charter of demands in respect of regularisation, protection of service condition, implementation of safety measures is justified and the petitioner is entitled for an Award of protection of service condition, implementation of safety measures and regularisation of service since whoever in service for more than 240 days in a preceding calendar year. Considering the above an Award is to be passed in favour of the petitioner union that the respondent management has to be directed to regularise the services of the employees and provide safety measures and protective service condition according to the rules.

20. On Point No.2 :

The next point to be decided is that whether the termination of Thiru K. Elumalai, P. Prabu, A. Harikrishnan, J. Arul, G. Sasikumar, K. Venkatesan, M. Iyyappan and A. Ilayaperumal and the refusal of employment to the following union workmen namely, R. Arivaradhan, N. Saravanakumar, M. Soundarapandian, A. Baskar, B. Murugaiyan, G. Dasarathan, M. Murugan, G. Suresh, S. Anbu, C. Ramesh are justified or not. In this case to decide the said issue, it is just and necessary to decide whether the respondent management has followed all the procedures laid down under the Act for termination and for refusal of employment. According to Rule 17(ii) of the Industrial Employment (Standing Orders) Central Rules, 1946 no order of punishment shall be made unless the workman

concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the allegation made against him and departmental inquiry shall be instituted before dealing with the charges and the workman concerned has to be given opportunity and he has to be permitted to get an assistance of a co-worker in the inquiry and a copy of the enquiry proceedings shall be given to the workman concerned on the conclusion of the enquiry and show cause notice has to be given regarding the findings of the domestic enquiry to get explanation of the delinquent. But in this case though the respondent management has stated in its counter that they have conducted domestic enquiry and terminated the particular employees, they have not placed any enquiry report as an exhibit and no such enquiry report is exhibited before this Court to establish that the domestic enquiry was conducted by the respondent establishment and admittedly, no such show cause notice on the basis of the domestic enquiry report was issued to the petitioner workmen before terminating their service. The respondent establishment has not exhibited such document before this Court to prove the fact that the domestic enquiry was conducted by them by giving opportunity to the members of the union.

21. Further in his evidence the respondent management witness RW.1 has stated as follows :

“.....எங்கள் தொழிற்சாலையில் பணி புரிந்த தொழிலாளர்கள் OMKAR Fine Organics Workers Union என்ற தொழிற்சங்கத்தை 2010-ம் ஆண்டு வாக்கில் துவங்கினார்கள். அந்த சமயத்தில் தொழிற்சாலையில் சுமார் 30 தொழிலாளர்கள் வேலை பார்த்தார்கள். 2010-ம் வருடத்தில் 20 தொழிலாளர்களை பணி நீக்கம் செய்துவிட்டோம். அந்த 20 தொழிலாளர், dismissed செய்வதற்கு முன்பு சென்னை உயர்நீதி மன்றத்தில் WP.No. 9724/2009 (Ex.P89) என்ற வழக்கை தாக்கல் செய்திருந்தார்கள் என்றால் சரிதான். அந்த writ petition அனுமதிக்கப்பட்டு, தீர்ப்பாகியுள்ளது என்றால் அது பற்றி எனக்கு தெரியாது. அந்த writ petition-னில் சம்பந்தப்பட்ட 18 நபர்களுடன் பேசி, வேலையை விட்டு நிறுத்திவிட்டோம்.ஒரு தொழிலாளி வேலைக்கு சேர்ந்து 2 வருடம் பணி நன்றாக செய்தால், அவருக்கு பணி நியமனம் கொடுப்போம். Ex.P47-நிர்வாகம் சார்பாக சமரச அதிகாரிக்கு கொடுத்த ஆட்சேபணை கடிதம் என்றால் சரிதான். அந்த Ex.P2-ஆட்சேபணையில், ஒரு தொழிலாளி 13 மாதம் ஒழுங்காக வேலை பார்த்தால், நிரந்தரம் செய்யப்படுவார் என்று குறிப்பிட்டுள்ளது என்றால் சரிதான். இந்த தாவாவில் சம்பந்தப்பட்ட 17 தொழிலாளிகள், தொழிற்சங்கம் ஆரம்பிப்பதற்கு முன்பாகவே, பணி நீக்கம் செய்யப்பட்டார்கள். 09-04-2012 அன்று Ex.P21 புகாரை, சமரச அதிகாரி முன்பு தொழிலாளர்கள் தாக்கல் செய்தார்கள் என்றால் சரிதான். இந்த புகார் கொடுப்பதற்கு முன்பே 5 தொழிலாளர்கள் பணி நீக்கம்

செய்யப்பட்டார்கள். புகார் கொடுத்த பின்பு மீதம் 12 தொழிலாளர்கள் பணி நீக்கம் செய்யப்பட்டார்கள். சமரச அலுவலரிடமிருந்து பெறப்பட்டது தான் Ex.P38 என்றால் சரிதான் தொழிலாளர்கள் சார்பாக, சமரச அலுவலரிடம் Ex.P66-Charter of Demand-யை தொழிற்சங்கம் கொடுத்தது.....”

The above evidence would go to show that the respondent management has not at all conducted the domestic enquiry before terminating any worker from the service of the respondent establishment and further it is also clear from the above evidence that in the year 2010 the respondent management has terminated 20 workers and before their termination the said 20 workmen have filed a writ petition before the Hon'ble High Court in W.P. No. 9724/2009, wherein, the writ was allowed and ordered in favour of the workmen and further it is revealed from the evidence of RW.1 that the respondent management has not regularised the workers even though they have worked for about 2 years and further it is revealed that though the petitioners have raised the industrial dispute on 09-04-2012 under Ex.P21, the respondent management has terminated the services of 12 employees while the industrial dispute is pending and hence the termination is totally against the provisions of section 33 of the Industrial Dispute Act.

22. Further it is learnt from the failure report that the Conciliation Officer himself has advised the respondent management to reinstate the petitioner workmen in their factory. Further, the respondent management has not conducted the domestic enquiry and has not given any opportunity to petitioner workmen to defend the case and without giving show cause notice regarding the punishment, these petitioners have been terminated from service which is totally against the provisions of the labour laws and standing orders and that therefore, it can be held that the termination of K. Elumalai, P. Prabu, A. Harikrishnan, J. Arul, G. Sasikumar, K. Venkatesan, M. Iyyappan and A. Ilayaperumal and refusal of employment to the union workmen namely, R. Arivaradhan, N. Saravanakumar, M. Soundarapandian, A. Baskar, B. Murugaiyan, G. Dasarathan, M. Murugan, G. Suresh, S. Anbu, C. Ramesh are not justified and hence it can be held that the petitioners are entitled for reinstatement as claimed by them.

23. As this Court has decided that termination of K. Elumalai, P. Prabu, A. Harikrishnan, J. Arul, G. Sasikumar, K. Venkatesan, M. Iyyappan and A. Ilayaperumal and refusal of employment to the union workmen namely R. Arivaradhan, N. Saravanakumar, M. Soundarapandian, A. Baskar, B. Murugaiyan, G. Dasarathan, M. Murugan, G. Suresh, S. Anbu,

C. Ramesh are not justified, it is to be decided whether the said workmen are entitled for back wages as claimed by the them. The respondent management without conducting domestic enquiry has terminated the above mentioned workmen from service while the industrial dispute is pending before the Conciliation Officer. On the other hand, the respondent has not proved that the said workmen have earned income after their termination from service. There is no evidence that the said workmen are working so far in any other industry and that there is no proof exhibited before this Court that they are working anywhere else. However the petitioner workmen could have served at anywhere else after their termination from the respondent establishment. Considering the above circumstances, this Court decides that the petitioner is entitled for 50% back wages with continuity of service and other attendant benefits.

24. On Point No. 3:

The another point to be decided is that whether the respondent management has adopted unfair labour practice as against the petitioner workmen and has violated the provisions of section 33 of the Industrial Dispute Act. It is the case of the petitioner that the respondent management did not want any trade union to function in its factory and has terminated all the members of the trade union numbering of 20 workers in the year 2009 without any reason and that as per the order of the Hon'ble High Court, 18 workers have been settled out of 20 workers and that the respondent management did not want the workers to form any trade union in its factory made a complaint against the workers who took active role in formation of trade union namely N. Saravanakumar, G. Suresh, M. Soundarapandian, G. Thasaradhan, M. Iyappan, Arivaradhan, A. Baskar and the said workers have formed a trade union on 11-03-2013 in the name and style of Omkar Fine Organics Employees Union that is the petitioner union. As already discussed above, it is clear that while the industrial dispute was pending before the Conciliation Officer the respondent management has terminated the petitioners without any permission of the Conciliation Officer where the industrial dispute is pending and that therefore it is decided by this court that the respondent management has violated the provisions of section 33 of Industrial Disputes Act and further it is clear that the respondent management has terminated the services of the petitioner workmen without any domestic enquiry and some of the employees were denied employment by them without following the procedures laid down under the Industrial Disputes Act and further it is established by the petitioner union that the respondent establishment has not provided with safety equipments and has not maintained the safety measures in the

factory. Further, the respondent management has terminated the services of the employees without giving any opportunity and without conducting domestic enquiry while the industrial dispute is pending before the Conciliation Officer. These facts would go to show that the respondent management has interfered with and coerced the workmen in the exercise of their right of organise the trade union in the respondent factory and the respondent management has terminated the number of employees without giving any opportunity and without conducting domestic enquiry and that therefore, it can be held that the respondent management has adopted unfair labour practice against the workers of their establishment and has violated the provisions of section 33 of the Industrial Disputes Act.

25. In the result, the petition is partly allowed and it is held that the respondent management has adopted unfair labour practice against the workers of their establishment and has violated the provisions of section 33 of the Industrial Dispute Act and the industrial dispute raised by the petitioner union against the respondent management regarding the charter of demands over regularisation, protection of service condition, implementation of safety measures *etc.*, is justified but in respect of wage revision is unjustified and an Award is passed by directing the respondent management to give regularisation to the members of the petitioner union, protection to their service condition and further directed to implement the safety measures in accordance with law in the respondent factory and the industrial dispute raised by the petitioner union against the respondent management over the termination of K. Elumalai, P. Prabu, A. Harikrishnan, J. Arul, G. Sasikumar, K. Venkatesan, M. Iyyappan and A. Ilayaperumal and the refusal of employment to the following union workmen namely R. Arivaradhan, N. Saravanakumar, M. Soundarapandian, A. Baskar, B. Murugaiyan, G. Dasarathan, M. Murugan, G. Suresh, S. Anbu, C. Ramesh are justified and an Award is passed by directing the respondent to reinstate the abovesaid workmen in service within one month from the date of this order and 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 13th day of October, 2017.

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

List of petitioner's witness:

PW.1 — 17-04-2015— N. Saravana Kumar

List of petitioner's exhibits:

Ex.P1 — — — Copy of the petitioner union Registration Certificate.

Ex.P2 — — — Copy of the petitioner union members ESI card.

Ex.P3 — 29-04-2009—Copy of the petitioner union office bearer confirmation order.

Ex.P4 — — — Copy of the ESI accident report.

Ex.P5 — — — Copy of the list of products manufactured from Methanol.

Ex.P6 —19-03-2012 —Copy of the petitioner union member Anbu's memo.

Ex.P7 —20-03-2012— Copy of the respondent notice.

Ex.P8 —02-04-2012— Copy of the petitioner union member Ramesh and Venkatesan Memo.

Ex.P9 —03-04-2012— Copy of the petitioner union member Ramesh's memo.

Ex.P10 — — — Copy of the petitioner union member Arul's memo.

Ex.P11 —03-04-2012— Copy of the petitioner union member Anbu's memo.

Ex.P12 —04-04-2012— Copy of the respondent letter to the Soundarapandian.

Ex.P13 —05-04-2012— Copy of the respondent letter to the Anbu, C. Ramesh and J. Arul.

Ex.P14 —05-04-2012— Copy of the petitioner union officer bearer Soundarapandian letter to the respondent.

Ex.P15 —05-04-2012— Copy of the respondent letter to the Soundarapandian.

Ex.P16 —06-04-2012— Copy of the respondent letter to the Arivaradhan.	Ex.P34 —16-04-2012— Copy of the respondent letter to the Suresh.
Ex.P17 —06-04-2012— Copy of the respondent letter to the Soundarapandian.	Ex.P35 —17-04-2012— Copy of the respondent letter to the Soundarapandian.
Ex.P18 —06-04-2012— Copy of the respondent letter to the Soundarapandian.	Ex.P36 —17-04-2012— Copy of the respondent letter to the Arivaradhan.
Ex.P19 —06-04-2012— Copy of the respondent letter to the Saravanakumar.	Ex.P37 —17-04-2012— Copy of the respondent letter to the Saravanakumar.
Ex.P20 —08-04-2012— Copy of the respondent notice.	Ex.P38 —18-04-2012— Copy of the conciliation notice.
Ex.P21 —09-04-2012— Copy of the petitioner union letter to the Labour Officer and other labour authorities.	Ex.P39 —19-04-2012— Copy of the respondent issued charge memo to the Ramesh.
Ex.P22 —10-04-2012— Copy of the respondent letter to the S. Anbu.	Ex.P40—19-04-2012— Copy of the respondent issued charge memo to the Anbu.
Ex.P23 —10-04-2012— Copy of the respondent letter to the Suresh.	Ex.P41 —19-04-2012— Copy of the respondent issued charge memo to the Arul.
Ex.P24 —10-04-2012— Copy of the respondent letter to the Ramesh.	Ex.P42 —20-04-2012— Copy of the petitioner union office bearer Arivaradhan leave letter.
Ex.P25 —11-04-2012— Copy of the petitioner union office bearer Soundarapandian letter to the respondent.	Ex.P43 —25-04-2012— Copy of the respondent letter to the Anbu.
Ex.P26 —11-04-2012— Copy of the petitioner union office bearer Arivaradhan letter to the respondent.	Ex.P44 —25-04-2012— Copy of the respondent letter to the Soundarapandian.
Ex.P27 —11.04.2012— Copy of the petitioner union office bearer Saravanakumar letter to the respondent.	Ex.P45 —25-04-2012— Copy of the respondent letter to the Ramesh.
Ex.P28 —11-04-2012— Copy of the respondent's Memo. to the Suresh.	Ex.P46 —25-04-2012— Copy of the respondent letter to the Arul.
Ex.P29 —11-04-2012— Copy of the petitioner union office bearer G. Suresh letter to the respondent.	Ex.P47 —26-04-2012— Copy of the respondent reply to the Conciliation Officer.
Ex.P30 —12-04-2012— Copy of the petitioner union member G. Suresh letter to the respondent and Labour Officer.	Ex.P48 —27-04-2012— Copy of the respondent letter to the Inspector of Factories.
Ex.P31 —15-04-2012— Copy of the respondent letter to the Soundarapandian.	Ex.P49 —28-04-2012— Copy of the petitioner union member Suresh reply to respondent.
Ex.P32 —15-04-2012— Copy of the respondent letter to the Arivaradhan.	Ex.P50 —29-04-2012— Copy of the petitioner union member Anbu letter to the respondent.
Ex.P33 —15-04-2012— Copy of the respondent letter to the Saravanakumar.	Ex.P51 —29-04-2012— Copy of the petitioner union member G.Suresh letter to the respondent.

Ex.P52 —29-04-2012—	Copy of the petitioner union member G.Suresh reply to respondent.	Ex.P67 —07-05-2012—	Copy of the respondent letter to the Saravankumar.
Ex.P53 —29-04-2012—	Copy of the petitioner union member Soundarapandian reply to respondent.	Ex.P68 —07-05-2012—	Copy of the respondent letter to the Murugan.
Ex.P54 —29-04-2012—	Copy of the petitioner union member G. Ramesh reply to respondent.	Ex.P69 —07-05-2012—	Copy of the respondent letter to the Thasarathan.
Ex.P55 —29-04-2012—	Copy of the petitioner union member S. Anbu reply to respondent.	Ex.P70 —07-05-2012—	Copy of the respondent letter to the Soundarapandian.
Ex.P56 —30-04-2012—	Copy of the petitioner union letter to the Labour Officer Conciliation.	Ex.P71 —07-05-2012—	Copy of the respondent letter to the Soundarapandian.
Ex.P57 —01-05-2012—	Copy of the petitioner union letter to the respondent.	Ex.P72 —07-05-2012—	Copy of the respondent letter to the Arivaradhan.
Ex.P58 —01-05-2012—	Copy of the petitioner union member Arul letter to the respondent.	Ex.P73 —08-05-2012—	Copy of the Conciliation notice ID. No. 960/LO@/AIL/2012.
Ex.P59 —02-05-2012—	Copy of the respondent salary increment letter to the Murugaiyan, Saravanakumar, Murugan, Arivaradhan.	Ex.P74 —09-05-2012—	Copy of the petitioner union office bearer Soundarapandian letter to the respondent.
Ex.P60 —03-05-2012—	Copy of the petitioner union member Murugaiyan letter to the respondent.	Ex.P75 —17-05-2012—	Copy of the respondent letter to the Soundarapandian, Saravanakumar, Arivaradhan.
Ex.P61 —03-05-2012—	Copy of the petitioner union member letter to the respondent.	Ex.P76 —19-05-2012—	Copy of the petitioner union member G. Suresh letter to the respondent with AD card.
Ex.P62 —03-05-2012—	Copy of the respondent letter to the Ramesh.	Ex.P77 —21-05-2012—	Copy of the petitioner union office bearer Saravanakumar, Soundarapandian, Arivaradhan letter to the respondent and Labour Officer Conciliation.
Ex.P63 —03-05-2012—	Copy of the respondent letter to the Anbu.	Ex.P78 —21-05-2012—	Copy of the Conciliation Notice.
Ex.P64 —03-05-2012—	Copy of the respondent letter to the Soundarapandian.	Ex.P79 —28-05-2012—	Copy of the respondent letter to ESI authorities.
Ex.P65 —04-05-2012—	Copy of the petitioner union office bearer Soundarapandian letter to the respondent.	Ex.P80 —30-05-2012—	Copy of the petitioner union letter to the respondent and other labour authorities.
Ex.P66 —07-05-2012—	Copy of the petitioner union charter of demand to the respondent.	Ex.P81 —06-06-2012—	Copy of the petitioner union letter to Labour Officer Conciliation.

Ex.P82 —19-06-2012—	Copy of the petitioner union member Arikrishnan Termination order.	Ex.P99 —14-08-2012—	Copy of the petitioner union letter to Labour Commissioner.
Ex.P83 —19-06-2012—	Copy of the respondent letter to J. Arul show cause memorandum.	Ex.P100 —17-08-2012—	Copy of the Conciliation notice.
Ex.P84 —20-06-2012—	Copy of the conciliation notice.	Ex.P101 —21-08-2012—	Copy of the written statement filed by the petitioner union.
Ex.P85 —22-06-2012—	Copy of the petitioner union letter to the Labour Officer (Enforcement) and other labour authorities.	Ex.P102 —21-08-2012—	Copy of the Conciliation minutes.
Ex.P86 —23-06-2012—	Copy of the respondent notice.	Ex.P103 —25-08-2012—	Copy of the Enquiry Officer notice to Anbu.
Ex.P87 —02-07-2012—	Copy of the respondent order to G. Suresh.	Ex.P104 —28-08-2012—	Copy of the respondent memo to the Saravanakumar.
Ex.P88 —02-07-2012—	Copy of the respondent order to S. Anbu.	Ex.P105 —28-08-2012—	Copy of the respondent memo. to the Soundarapandian.
Ex.P89 —03-07-2012—	Copy of the order passed in WP. No. 9724 of 2009.	Ex.P106 —28-08-2012—	Copy of the respondent memo to the Soundarapandian, Saravanakumar, Arivaradhan.
Ex.P90 —04-07-2012—	Copy of the petitioner union Office bearer Saravanakumar salary slip.	Ex.P107 —30-08-2012—	Copy of the petitioner union Office bearer Soundarapandian reply to the respondent.
Ex.P91 —12-07-2012—	Copy of the petitioner union dispute before the Labour Conciliation.	Ex.P108 —01-09-2012—	Copy of the respondent memo.
Ex.P92 —18-07-2012—	Copy of the petitioner union member J.Arul termination order and cheque issued by the respondent.	Ex.P109 —19-09-2012—	Copy of the petitioner union letter to the respondent.
Ex.P93 —24-07-2012—	Copy of the respondent order.	Ex.P110 —24-09-2012—	Copy of the petitioner union member Sasikumar, Baskar, Venketesan letter to respondent.
Ex.P94 — — —	Copy of the petitioner union member S. Anbu letter to Enquiry Officer.	Ex.P111 —24-09-2012—	Copy of the petitioner union Office bearer Soundarapandian, Saravanakumar, Arivaradhan letter to the respondent.
Ex.P95 —02-08-2012—	Copy of the plaint filed in OS. No. 1121 of 2012.	Ex.P112 —24-09-2012—	Copy of the petitioner union letter to the management and Labour Officer Conciliation.
Ex.P96 —02-08-2012—	Copy of the Affidavit and petition in IA. No. 2054 of 2012 on OS. No. 1121 of 2012.	Ex.P113 —25-09-2012—	Copy of the petitioner union dispute before the Labour Officer Conciliation.
Ex.P97 —02-08-2012—	Copy of the conciliation notice.		
Ex.P98 —08-08-2012—	Copy of the respondent memo.		

Ex.P114 —25-09-2012—	Copy of the petitioner union dispute before the Labour Officer Conciliation.	Ex.P131 —06-12-2012—	Copy of the respondent letter to the Arivaradhan, S a r a v a n a k u m a r , Soundarapandian.
Ex.P115 —25-09-2012—	Copy of the petitioner union dispute before the Labour Officer Conciliation.	Ex.P132 —07-12-2012—	Copy of the respondent reply to the Conciliation Officer.
Ex.P116 —01-10-2012—	Copy of the respondent order of termination to K. Venkatesh.	Ex.P133 —14-12-2012—	Copy of the respondent reminder letter.
Ex.P117 —01-10-2012—	Copy of the respondent order of termination to Sasikumar.	Ex.P134 —14-12-2012—	Copy of the Conciliation failure report.
Ex.P118 —03-10-2012—	Copy of the petitioner union letter to the Labour Officer Conciliation and authorities.	Ex.P135 —15-12-2012—	Copy of the respondent letter to the Conciliation Officer.
Ex.P119 —03-10-2012—	Copy of the petitioner union letter to the Labour Officer Conciliation and other Labour authorities.	Ex.P136 —21-12-2012—	Copy of the Government reference.
Ex.P120 —04-10-2012—	Copy of the Conciliation Notice.	Ex.P137 —24-12-2012—	Copy of the respondent letter to the Inspector of Police.
Ex.P121 —04-10-2012—	Copy of the Show cause notice.	Ex.P138 —24-12-2012—	Copy of the petitioner union Office bearer Soundarapandian reply to the respondent.
Ex.P122 —08-10-2012—	Copy of the Conciliation notice.	Ex.P139 —28-12-2012—	Copy of the petitioner union Office bearer Soundarapandian, S a r a v a n a k u m a r , Arivaradhan letter to the respondent.
Ex.P123 —08-10-2012—	Copy of the Conciliation notice.	Ex.P140 —05-01-2013—	Copy of the respondent order to Soundarapandian, S a r a v a n a k u m a r , Arivaradhan.
Ex.P124 —08-10-2012—	Copy of the respondent letter to the Soundarapandian.	Ex.P141 —17-01-2013—	Copy of the respondent order to Soundarapandian, S a r a v a n a k u m a r , Arivaradhan.
Ex.P125 —09-10-2012—	Copy of the Conciliation Notice.	Ex.P142 —14-02-2013—	Copy of the respondent letter to Conciliation Officer.
Ex.P126 —19-10-2012—	Copy of the Conciliation Notice.	<i>List of respondent's witness:</i>	
Ex.P127 —29-10-2012—	Copy of the Conciliation Notice.	RW.1 —22-02-2016— B. Krishna Baliga	
Ex.P128 —23-11-2012—	Copy of the Conciliation Notice.	<i>List of respondent's exhibits:</i>	
Ex.P129 — —	Copy of the petitioner union letter to the Conciliation Officer.	Ex.R1 —06-12-2012 —Copy of the order in I.A. No. 2054/2012 in OS. No.1121/2012 on the file of III Additional District Munsif, Puducherry.	
Ex.P130 —26-11-2012—	Copy of the respondent memo. to the Murugan, Murugaiyan, Thasarathan.		

Ex.R2 —06.12.2012 — Copy of the decreetal order in I.A. No. 2054/2012 in OS. No. 1121/2012 on the file of III Additional District Munsif, Puducherry.	Ex.R14 —19-04-2012 —Office copy of charge sheet issued by the respondent management to S. Anbu.
Ex.R3 —2009 — Sales Report Chart - 2012	Ex.R15 —07-05-2012 —Letter to get increment by the respondent management to S.Anbu.
Ex.R4 — — — Terms and conditions of service issued by the respondent management.	Ex.R16 —10-04-2012 —Dormitory Quit Notice issued by the respondent management to S. Anbu.
Ex.R5 —02-04-2012 —Original memo of show cause issued by the respondent to Ramesh and Venkatesan.	Ex.R17 —11-04-2012 —Memo issued by the respondent management to Suresh.
Ex.R6 —08-08-2012 —Memo to initiate disciplinary action issued by the respondent to M. Soundarapandian, N. Saravanakumar, R. Arivaradhan, Baskar and Sasikumar.	Ex.R18 —12-04-2012 —Office copy of police complaint given by the respondent management against Suresh.
Ex.R7 —19-04-2012 —Office copy of charge sheet issued by the respondent to Ramesh.	Ex.R19 —03-04-2012 —Memo issued by the respondent management to S.Anbu, Ramesh and Arul.
Ex.R8 —25-04-2012 —Remainder letter sent by the respondent to Ramesh.	Ex.R20 —04-04-2012 —Letter to produce the books by the respondent management to S. Anbu.
Ex.R9 —28-08-2012 —Memo to surrender the keys and documents etc., (Nos.3) issued by the respondent to M. Soundarapandian, N. Saravanakumar, R. Arivaradhan.	Ex.R21 —05-04-2012 —Warning letters by the respondent management to S. Anbu, Ramesh and Arul.
Ex.R10 —12-09-2012 —Order of Suspension issued by the respondent to Arivaradhan.	Ex.R22 —00-08-2012 —Copy of the letter sent by post by Anbu to Enquiry officer.
Ex.R11 —12-09-2012 —Order of Suspension issued by the respondent to Soundarapandian.	Ex.R23 —09-05-2012 —Letter sent by the respondent management to Anbu.
Ex.R12 —20-07-2012 —Continuous disturbance from the employees letter sent to Labour Commissioner by the respondent management.	Ex.R24 —25-04-2012 —Office copy of the remainder letter sent by the respondent management to S.Anbu.
Ex.R13 —05-04-2012 —Office copy of the letter of show cause sent by the management to R. Anbu, C. Ramesh, J. Arul.	Ex.R25 —03-05-2012— Copy of the letter sent by the respondent management to S.Anbu.
	Ex.R26 —29-04-2012— Letter sent by S.Anbu to the respondent management.
	Ex.R27 —19-04-2012— Returned courier cover and receipt addressed to S. Anbu by the respondent management.
	Ex.R28 —17-10-2009— Office copy of charge sheet issued by the respondent management to S. Anbu.

Ex.R29 — 17-09-2012— Acknowledgement card addressed to S. Anbu.

Ex.R30 — 30-04-2012— Acknowledgement card addressed to S. Anbu.

Ex.R31 — 23-04-2012 — Acknowledgement card addressed to S. Anbu.

Ex.R32 — 17-01-2013— Letter to return the company vehicle by the respondent management to M. Soundarapandian.

Ex.R33 — 18-05-2011— Office copy of salary certificate issued by the respondent management to S. Arivarathan.

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

GOVERNMENT OF PUDUCHERRY
OFFICE OF THE CHIEF EDUCATIONAL OFFICER

No. 650/CEO/Exam Cell/2017.

Puducherry, the 15th December 2017.

NOTIFICATION

It is hereby notified that the original Matric Mark Certificate bearing Serial Number B 0328863 under Register Number 228924 of March 1999, in respect of Lakshminarasu *alias* Rekah, an ex-pupil of St. Patrick Matric Higher Secondary School, Puducherry, is reported to have been lost and beyond scope of recovery, it is proposed to issue a duplicate certificate, If, the original certificate is to be found by anybody, it should be sent to the Director of Government Examinations, Chennai-6 for cancellation, as it is no longer valid.

V. RANGANATHAN,
Chief Educational Officer.

GOVERNMENT OF PUDUCHERRY
OFFICE OF THE CHIEF EDUCATIONAL OFFICER

No. 650/CEO/Exam Cell/2017.

Puducherry, the 15th December 2017.

NOTIFICATION

It is hereby notified that the following candidates have lost their original S.S.L.C. Mark Certificates and beyond the scope of recovery, the necessary steps have been taken to issue duplicate certificates. If, any one finds the original mark certificate(s), it/they may be sent to the Secretary, State Board of School Examinations (Sec.), College Road, Chennai-600 006 for cancellation, as it is/they are no longer valid.

Sl. No.	Name of the applicant	Register No., session and year	Sl. No. of the mark certificate	School in which studied last
(1)	(2)	(3)	(4)	(5)
Thiru/Tmt./Selvi :				
1	A. Pravin	555754, March 2008	—	Government High School, Kuruvinatham, Puducherry.
2	M. Mahalakshmi	5017183, March 2015	—	Immaculate Heart of Marys Government Aided High School, Reddiarpalayam, Puducherry.
3	A. Anbukumar	469783, April 2004	—	Jeevanandam Government Higher Secondary School, Karamanikuppam, Puducherry.
4	A. Arutgracy	388147, March 2000	—	Immaculate Heart of Marys Higher Secondary School, Puducherry.
5	D. Jayabalaji	595331, March 2010	—	Veeramamunivar Government Boys' High School, Puducherry.

V. RANGANATHAN,
Chief Educational Officer.