



புதுச்சேரி மாநில அரசிதழ்

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SOMMAIRES

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 191/Lab/AIL/T/2017,
Puducherry, dated 30th November 2017)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 02/2016, dated 27-10-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of M/s. Suolificio Linea Italia (India) Private Limited, Sedarapet, Puducherry and Chemcrown Exports Suolificio Linea Italia Thozhilalargal Sangam over termination of 5 union workmen 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.

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 27th day of October, 2017.

I.D. (L) No. 02/2016

The Chemcrown Exports Suolificio
Linea Italia Thozhilalargal Sangam,
No. 42, Cuddalore Main Road,
Bharathi Mill Thittu, Mudaliarpet,
Puducherry-605 004. . . Petitioner

Versus

The Managing Director,
M/s. Suolificio Linea Italia (India)
Private Limited,
No. 19/1 and 4/14, Mylam Pondy Road,
Sedarapet, Puducherry. . . Respondent

This industrial dispute coming on 11-10-2017 before me for final hearing in the presence of Thiruvallargal R.T. Shankar, A. Ashokkumar, P. Suresh and B. Balamurugan, Counsel for the petitioner, Thiruvallargal L. Sathish, T. Pravin, S. Velmurugan, Advocates filed vakalat for the respondent and

subsequently when the case was posted for filing of counter, the respondent being called absent and set *ex parte*, upon hearing the petitioner and perusing the cast records, this Court passed the following :

AWARD

1. This industrial dispute has been referred by the Government as per the G.O. Rt. No. 14/AIL/Lab./T/2016, dated 14-3-2016 for adjudicating the following:

(a) Whether the dispute raised by union workmen Chemcrown Exports Suolificio Linea Italia Thozhilalargal Sangam against the management of M/s. Suolificio Linea Italia Private Limited, Puducherry over illegal termination of 5 union workmen Thiruvallargal (1) R. Annamalai, (2) T. Nagamuthu, (3) P. Ganapathy, (4) V. Anton Sagayaraj, (5) S. Selvamani during the pendency of conciliation proceedings and pendency before the Labour Court is justified? If justified, what relief they are entitled to?

(ii) Whether the management had violated the provisions under section 33(A) of the Industrial Disputes Act, 1947. If so, what relief the union workmen are entitled?

(iii) Whether the engagement of contract labour directly in the manufacturing process against the provisions of the Contract Labour (Regulation and Abolition) Act is justified? If not justified, what relief the union workmen are entitled to?

(iv) Whether the management had adopted unfair labour practice against the trade union office bearers. If so, what relief they are entitled to ?

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

2. Though the Counsel for the respondent filed vakalat, despite several opportunities, no counter was filed on behalf of the respondent and hence, the respondent was set *ex parte*.

3. In the course of enquiry, on the side of the petitioner the union member Anton Sagayaraj was examined as PW.1 and Ex.P1 to Ex.P102 were marked.

4. *The point for determination is:*

(i) Whether the dispute raised by the petitioner union against the respondent management over illegal termination of 5 union workmen namely R. Annamalai, T. Nagamuthu, P. Ganapathy, V. Anton Sagayaraj, S. Selvamani during the pendency of conciliation proceedings and pendency before the Labour Court is justified or not and if justified, what is the relief entitled to the said workmen?

(ii) Whether the management had violated the provisions under section 33(A) of the Industrial Disputes Act, 1947 and had adopted unfair labour practice against the trade union office bearers and if so, what is the relief entitled to the union workmen?

(iii) Whether the engagement of contract labour directly in the manufacturing process against the provisions of the Contract Labour (Regulation and Abolition) Act is justified or not and if not justified, what is the relief entitled to the union workmen?

5. *On point No.1 :*

Heard. As per the claim petition and evidence of PW.1, it is the case of the petitioner union that union is a registered one and the respondent establishment is a registered company and functioning for about 12 years in which more than 250 employees are working and involving the manufacturer of leather foot wear and leather products having huge profits as annual income and that the union has raised the industrial dispute for unfair labour practice committed by the respondent management, protection of service conditions of the members of the union, suspension and termination of the five union workmen and engagement of contractual labourers and that the union has given strike notice on 16-12-2014 to the management and raised industrial dispute against the respondent management that the management adopting unfair labour practice against the union workmen and no protection for their service and illegally suspended the union workmen by false charges and terminating the service of the union workmen against the principles of natural justice and also violating the provision of section 33 of the Industrial Disputes Act and engaged contractual workmen illegally for manufacturing process against the provisions of the Contract Labour, Act and threatening the petitioner union members by outside bad element inside the factory premises and violating the terms and conditions of the 12(3) settlement and on 15-12-2014 the union has filed a charter of demand for various demands including the suspension and refusal of employment to the workmen while pendency of the dispute and during the course of conciliation on 19-12-2014 the union alleged that the management continuously adopting unfair labour practice from the year 2003 since, from the date of formation of the trade union and illegally terminated the 5 union workmen during the year 2011 which was referred to Labour Court and the Labour Court awarded reinstatement with full back wages and all legal benefits and the order has not been implemented by the management and against the order the management filed a Appeal before the Hon'ble High Court which is pending and the management illegally refused the regularisation to union workers including 5 dismissed employees and the dispute was referred to Labour Court in I.D.(T). No. 31/2012 which was allowed by the Labour Court on 3-9-2013 and even then the

management refused to implement the same and therefore, the petitioner union filed an execution petition in E.P. No. 16 of 2015 before the II ADJ and the same was pending and during the Court proceedings and conciliation, the respondent management suspended 5 union workmen who is connected with disputes namely Annamalai, Nagamuthu, Ganapathy, Anton Sagayaraj and Selvamani with *mala fide* intention and by an act of victimisation

6. It is the further case of the petitioner union that the management again suspended 7 union officers on 13-12-2014 when Police complaint was made before the SHO, Sedarapet vide in FIR. No. 100/201 as the management dismantled the trade union flag and union name board and that the respondent management agreed before the SHO, Sedarapet to revoke the order of suspension, dated 26-12-2014 to 5 union workmen and revoke the order of suspension, dated 13-12-2014 to 7 union workmen and however, the management acted against the agreed terms and conditions before the SHO, Sedarapet and without obtained any permission or approval from the appropriate authority terminated the abovesaid 5 union workmen on 1-4-2015 illegally by an act of victimisation and motivation which is against the section 33 of the Industrial Disputes Act and the petitioner union strongly represented before the Conciliation Officer that the management illegally adopting unfair labour practice and termination of union workmen while pendency of conciliation and Labour Court proceedings and that the management violated the provision under section 33 of the Industrial Disputes Act and engaged illegally the contract labourers in the place of the union workmen and imposed false charges against the trade union office bearers in order to terminate their services illegally with *mala fide* intention and the Enquiry Officer appointed by the respondent management is nothing but their Counsel and therefore, he would be acted upon the tunes of the employer and hence, the enquiry conducted by the respondent management is absolutely contra and against law and it would not bind as per law and not provided any sufficient opportunity to the union members to prove their innocence in the domestic enquiry on the principles of natural justice and the enquiry was conducted in a biased manner and the respondent management while entering a 12(3) settlement before the conciliation machinery forcibly not allowed the petitioner union to enter the settlement in the registered name of the trade union and honorary president to sign in the settlement and union agreed with the management not to adopt unfair practice against the union workmen and whereas, the management taking advantage continuously adopting unfair labour practice against the workmen by issuing

false charge-sheet, suspension and termination of their service and charges are fake, false and invented and concocted one for victimize the employees and the Enquiry Officer is appointed by the management not an independent and Impartial Officer and he is a Counsel appearing for the respondent management and he has also not permitted the office bearer of the union to assist the charge-sheet employees and the domestic enquiry is conducted in a biased manner and has not followed the principles of natural justice and the enquiry is not conducted in a manner by giving full opportunity to the employees to defend the charge on merit and the Enquiry Officer has not considered the evidence of the employee's witnesses in the enquiry proceedings and the employees were not permitted by the Enquiry Officer to cross examine the respondent side witnesses and that therefore, the respondent management taking the law into their hands to do all sort of unfair labour practices as against the petitioner union members and that employees are not working anywhere else in other establishment and the workmen and their family are facing untold hardship after termination by the respondent management. In support of their case, the petitioner union has exhibited Ex.P1 to Ex.P102.

7. From the oral evidence and exhibits marked by the petitioner, it is clearly established through the petitioner union that the petitioner union members were working in the respondent establishment and that the respondent management has not conducted the domestic enquiry in a proper manner and has not given any opportunity to petitioner workmen to defend the case and the respondent management without conducting domestic enquiry in a proper manner has terminated the above-mentioned workmen from service without obtaining any prior permission which is totally against the provisions of the labour laws.

8. On the other hand, though the respondent Counsel filed vakalat for respondent, the respondent has not filed any counter and subsequently due to the absence of the respondent, the respondent was set *ex parte*. Considering the fact that the petitioner union has established their case that the union members are terminated by the respondent management without following any procedures and without obtaining any prior permission while the conciliation is pending, it is to be held that the termination of 5 union workmen namely Annamalai, Nagamuthu, Ganapathy, Anton Sagayaraj and Selvamani are not justified and hence, it can be held that the petitioners are entitled for reinstatement with full back wages, continuity of service and all other attendance benefits as claimed by them.

9. *On point No. 2 :*

The another point is to be decided 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 Disputes 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 the members of the trade union without any reason. As already discussed above, it is clear that while the conciliation was pending before the Conciliation Officer regarding charter of demands the respondent management has terminated the union members without any permission of the Conciliation Officer where the industrial dispute is pending and that therefore, it is clear that the respondent management has violated the provisions of section 33 of Industrial Disputes Act and further, the respondent management has terminated the services of the employees without giving any opportunity and without conducting domestic enquiry in a proper manner while the industrial dispute is pending before the Conciliation Officer without getting express permission from 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 participation in the trade union in the respondent factory and the respondent management has terminated the union members without giving any opportunity and without conducting domestic enquiry in a proper manner 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.

10. *On point No. 3 :*

It is the case of the petitioner union that the respondent management has engaged the contractual labour in the manufacturing process in the place of union workmen against the provisions of Contract Labour Act and in support of their contention PW.1 has let evidence. *Per contra*, the respondent management does not prefer themselves to conduct the dispute and as discussed above the respondent management has used to appoint contract labours in the manufacturing process as against the provisions of Contract Labour Act and has to be forbidden by the Award and hence, the respondent management is to be directed not to engage contract labours in the manufacturing process.

11. In the result, the petition is 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 Disputes Act and the

industrial dispute raised by the petitioner union against the respondent management over illegal termination of 5 union workmen Tv1. (1) R. Annamalai, (2) T. Nagamuthu, (3) P. Ganapathy, (4) V. Anton Sagayaraj, (5) S. Selvamani during the pendency of conciliation proceedings and pendency before the Labour Court and against engagement of contract labour directly in the manufacturing process 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 with full back wages, continuity of service and all other attendance benefits and further the respondent management is directed not to engage contract labours directly in the manufacturing process. No cost.

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

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

List of petitioner's witness:

PW.1 — 11-10-2017— Anton Sagayaraj

List of petitioner's exhibits:

- Ex.P1 — 20-08-2013— Copy of Form-L of strike notice given by the petitioner union to the respondent management for the unfair labour practices committed by the respondent management.
- Ex.P2—31-10-2013— Copy of conciliation call letter send by the Labour Officer in respect of the strike notice.
- Ex.P3—08-04-2013— Copy of charter of demands submitted by the petitioner union before the Labour Officer Conciliation, Puducherry for wage revision of the employees working with the respondent management.
- Ex.P4— 11-03-2014— Copy of conciliation reopen letter submitted by the petitioner union before the Labour Officer Conciliation, Puducherry.

Ex.P5—29-04-2015— Copy of industrial dispute raised by the petitioner union for dismissed employees.

Ex.P6—13-07-2015— Copy of failure report submitted by the Labour Officer Conciliation, Puducherry to Government of Puducherry.

Ex.P7—14-03-2016— Copy of notification issued by the Government of Puducherry to refer the industrial dispute to Labour Court, Puducherry for adjudication.

Ex.P8— — — Certified copy of the claim statement filed in I.D. (T). No. 31/2012.

Ex.P9—03-09-2013— Certified copy of the Award passed in I.D.(T). No. 31/2012.

Ex.P10—11-11-2014— Certified copy of the Execution petition filed in E.P. No. 16 of 2015.

Ex.P11—04-10-2015— Certified copy of the counter filed by the respondent management in E.P. No. 16 of 2015.

Ex.P12—16-11-2015— Certified copy of the order passed in E.P. No. 16 of 2015.

Ex.P13—11-11-2014— Certified copy of the H4 notice received by the respondent in E.P. No. 16 of 2015.

Ex.P14—05-07-2013— Copy of the show cause notice issued by the respondent management to Annamalai.

Ex.P15—06-07-2013— Copy of the reply letter submitted by Annamalai to the respondent management.

Ex.P16—23-07-2013— Copy of the show cause notice issued by the respondent management to Annamalai.

Ex.P17—25-07-2013— Copy of the reply letter submitted by Annamalai to the respondent management.

Ex.P18—26-07-2013—	Copy of the temporary suspension order issued by the respondent management to Annamalai.	Ex.P33—05-03-2015—	Copy of the 2nd show cause notice sent by the respondent management to Annamalai.
Ex.P19—07-08-2013—	Copy of suspension pending enquiry letter issued by the respondent management to Annamalai.	Ex.P34—09-03-2015—	Copy of reply letter sent by Annamalai to the respondent management.
Ex.P20—26-08-2013—	Copy of the notice sent by the respondent management to Annamalai.	Ex.P35—01-04-2015—	Copy of dismissal order issued to Annamalai with one month salary for a sum of ₹ 7,300 <i>vide</i> ICICI Bank cheque, dated 01-04-2013 under the cheque No. 103752.
Ex.P21—28-08-2013—	Enquiry proceedings.	Ex.P36—16-04-2015—	Copy of letter sent by Annamalai to the respondent management for requesting job.
Ex.P22—07-09-2013—	Copy of the letter submitted by the Annamalai to the Enquiry Officer seeking permission for Assistance.	Ex.P37—24-05-2013—	Copy of show cause notice issued by the respondent to the Selvamani.
Ex.P23—07-09-2013—	Copy of the enquiry proceedings.	Ex.P38—27-05-2013—	Copy of the letters submitted by the Selvamani to the respondent.
Ex.P24—14-09-2013—	Copy of the letter submitted by Annamalai to the Enquiry Officer.	Ex.P39—24-08-2013—	Copy of the suspension pending enquiry order issued by the respondent management to Selvamani.
Ex.P25—14-09-2013—	Copy of the enquiry proceedings.	Ex.P40—27-08-2013—	Copy of reply letter submitted by Selvamani.
Ex.P26—21-09-2013—	Copy of the objection letter given by Annamalai to the Enquiry Officer for biased enquiry.	Ex.P41—26-08-2013—	Copy of notice sent by the respondent management to Selvamani.
Ex.P27—21-09-2013—	Copy of the enquiry proceedings.	Ex.P42—28-08-2013—	Copy of enquiry proceedings.
Ex.P28—21-09-2013—	Copy of the letter submitted by Annamalai for changing Enquiry Officer.	Ex.P43—07-09-2013—	Copy of enquiry proceedings.
Ex.P29—01-10-2013—	Copy of summon sent by the Enquiry Officer to Annamalai.	Ex.P44—07-09-2013—	Copy of letter submitted by the Selvamani to the Enquiry Officer seeking permission for Assistance.
Ex.P30—08-01-2014—	Copy of the letter sent by Annamalai to the respondent management for requesting the subsistence allowance.	Ex.P45—14-09-2013—	Copy of enquiry proceedings.
Ex.P31—29-03-2014—	Copy of the enquiry report.	Ex.P46—14-09-2013—	Copy of written statement filed by Selvamani to the Enquiry Officer.
Ex.P32—05-09-2014—	Copy of dispute raised by Annamalai before the Labour Officer Conciliation.		

Ex.P47—21-09-2013—	Copy of enquiry proceedings.	Ex.P61—12-08-2013—	Copy of suspension pending enquiry order issued by the respondent management to Nagamuthu.
Ex.P48—21-09-2013—	Copy of objection letter submitted by Selvamanai before the Enquiry Officer for biased enquiry.	Ex.P62—12-08-2013—	Copy of reply for suspension letter.
Ex.P49—21-09-2013—	Copy of objection letter submitted by Selvamani before the respondent management for requesting to change the Enquiry Officer.	Ex.P63—19-08-2013—	Copy of statement sent by the Nagamuthu to the respondent.
Ex.P50—01-10-2013—	Copy of summon sent by the Enquiry Officer to Selvamani.	Ex.P64—26-08-2013—	Copy of show cause notice issued to Nagamuthu by the respondent management.
Ex.P51—05-10-2013—	Copy of reply letter sent by Selvamani to the Enquiry Officer for non appearance of the enquiry.	Ex.P65—28-08-2013—	Copy of summon sent by the Enquiry Officer to Nagamuthu.
Ex.P52—22-02-2014—	Copy of enquiry report.	Ex.P66—02-09-2013—	Copy of enquiry proceedings.
Ex.P53—05-09-2014—	Copy of the letter sent by Selvamani to the respondent management for requesting job.	Ex.P67—07-09-2013—	Copy of enquiry proceedings.
Ex.P54—05-03-2015—	Copy of second show cause notice issued by the respondent to Selvamani.	Ex.P68—07-09-2013—	Copy of letter submitted by Nagamuthu to the Enquiry Officer seeking permission for Assistance.
Ex.P55—10-03-2015—	Copy of the reply for the second show cause notice submitted by Selvamani to the respondent.	Ex.P69—14-09-2013—	Copy of enquiry proceedings.
Ex.P56—01-04-2015—	Copy of dismissal order issued to Selvamani with one month salary for a sum of ₹ 5,500 under the cheque No. 103749 of ICIIC Bank, dated 01-04-2015.	Ex.P70—14-09-2013—	Copy of written statement filed by the Nagamuthu before the Enquiry Officer.
Ex.P57—15-04-2015—	Copy of the letter sent by Selvamani to the respondent management for requesting job.	Ex.P71—14-09-2013—	Copy of objection letter submitted by the Nagamuthu before the Enquiry Officer for biased enquiry.
Ex.P58—27-07-2013—	Copy of show cause notice issued by the respondent to Nagamuthu.	Ex.P72—21-09-2013—	Copy of enquiry proceedings.
Ex.P59—29-07-2013—	Copy of reply for show cause notice.	Ex.P73—21-09-2013—	Copy of objection letter submitted by Nagamuthu before the Enquiry Officer for biased enquiry.
Ex.P60—03-08-2013—	Copy of temporary suspension order issued by the respondent management to Nagamuthu.	Ex.P74—21-09-2013—	Copy of objection letter submitted by Nagamuthu before the respondent management for requesting to change the Enquiry Officer.
		Ex.P75—01-10-2013—	Copy of summon sent by the Enquiry Officer to Nagamuthu.

Ex.P76—05-10-2013— Copy of reply letter sent by the Nagamuthu to the Enquiry Officer for non appearance of the enquiry.	Ex.P90—07-09-2013— Copy of letter sent by Anton Sagayaraj to the Enquiry Officer.
Ex.P77—22-02-2014— Copy of the enquiry report.	Ex.P91—07-09-2013— Copy of the enquiry proceedings.
Ex.P78—05-09-2014— Copy of the dispute raised by Nagamuthu before the Labour Officer for subsistence allowance.	Ex.P92—14-09-2013— Copy of the enquiry proceedings.
Ex.P79—05-03-2015— Copy of show cause notice sent to Nagamuthu by the respondent management,	Ex.P93—21-09-2013— Copy of the enquiry proceedings.
Ex.P80—09-03-2015— Copy of reply letter for second show cause notice.	Ex.P94—21-09-2013— Copy of objection letter submitted by Anton Sagayaraj before the respondent management for requesting to change the Enquiry Officer.
Ex.P81—01-04-2015— Copy of dismissal order issued to Nagamuthu with one month salary for a sum of ₹ 7,600 under the cheque No. 103751 of ICICI Bank, dated 01-04-2015.	Ex.P95—01-10-2013— Copy of summon sent to Anton Sagayaraj by the Enquiry Officer.
Ex.P82—15-04-2015— Copy of letter sent by Nagamuthu to the respondent management for requesting job.	Ex.P96—04-10-2013— Copy of letter sent by Anton Sagayaraj to the Enquiry Officer.
Ex.P83—28-08-2013— Copy of show cause notice sent to Anton Sagayaraj by the respondent management.	Ex.P97—11-04-2013— Copy of the enquiry report.
Ex.P84—29-08-2013— Copy of the reply letter sent by Anton Sagayaraj to respondent management.	Ex.P98—05-09-2014— Copy of the dispute raised by Anton Sagayaraj before the Labour Officer, Conciliation.
Ex.P85—29-08-2013— Copy of show cause notice sent by the respondent management to Anton Sagayaraj.	Ex.P99—05-03-2015— Copy of second show cause notice sent to Anton Sagayaraj by the respondent management.
Ex.P86—30-08-2013— Copy of reply letter sent by Anton Sagayaraj to respondent management.	Ex.P100—09-03-2015— Copy of reply letter for second show cause notice.
Ex.P87—30-08-2013— Copy of suspension pending enquiry order issued by the respondent management to Anton Sagayaraj.	Ex.P101—01-04-2015— Copy of dismissal order issued to Anton Sagayaraj with one month salary for a sum of ₹ 6,900 under the cheque No. 103750 of ICICI Bank, dated 01-04-2015.
Ex.P88—31-08-2013— Copy of reply letter sent by Anton Sagayaraj to respondent management.	Ex.P102—16-04-2015— Copy of request letter sent by Anton Sagayaraj to the respondent management for requesting job.
Ex.P89—02-09-2013— Copy of notice sent to Anton Sagayaraj.	

List of respondent's witnesses: Nil

List of respondent's exhibits : Nil

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