



புதுச்சேரி மாநில அரசிதழ்

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 56/Lab./AIL/T/2018,
Puducherry, dated 9th April 2018)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 101/2012, dated, 03-03-2018 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of M/s. State Express Transport Corporation, Chennai and Thiru Vanajamunian, Cuddalore District, over non-payment of wage increments for completion of postgraduation, financial assistance to his children and revision of basic pay-Award of the Labour Court, Puducherry has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. MOUTTOULINGAM,

Under Secretary to Government, (Labour).

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

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

Saturday, the 03rd day of March, 2018.

I.D. (L) No. 101/2012

Vanajamunian,
No. 5, Thillai Nagar,
Buvanagiri and Post,
Chidambaram Taluk,
Cuddalore District.

.. Petitioner

Versus

The Managing Director,
M/s. State Express Transport Corporation,
Pallava Salai, Chennai-600 002. .. Respondent

This industrial dispute coming on 09-02-2018 before me for final hearing in the presence of Thiruvalargal L. Sathish, T. Pravin, S. Velmurugan, V. Veeraragavan and E. Karthik, Counsel for the

petitioner, and Thiru S. Karthikeyan, 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. 222/AIL/Lab./J/2012, dated 20-12-2012 for adjudicating the following:-

(i) Whether the dispute raised by the petitioner Thiru Vanajamunian against the management of M/s. State Express Transport Corporation, over non-payment of wage increments for completion of postgraduation, financial assistance to his children and revision of basic pay as per the wage settlement are justified?

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

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

2. It is the case of the petitioner that he had been in service as Conductor in the respondent corporation from 07-04-1989 and his service was confirmed on 01-03-1991 and for the past 25 years he was working in various places and now, he is working as Senior Conductor in Puducherry Depot since from 2005 and that as per settlement arrived at between the respondent corporation and the trade unions, the respondent enhanced educational allowance from ₹ 1,000 to ₹ 1,500 and his daughter joined B.E., in 2006 at Salem Government College and completed her course in 2010 and that the respondent did not pay him education allowance to the petitioner inspite of his repeated demands for the said period though he had applied on 06-03-2009 and 08-03-2011 which comes to the tune of ₹ 6,000 for the period from 2006-2010 and as he has completed postgraduation in M.A., Sociology through distance education in the year 2000 he has applied to incorporate his Master's Degree in his service record *vide* his letters, dated 21-07-2004, 15-09-2004, 19-10-2004, 13-08-2006 and 16-04-2008 and even then, the respondent never responded to any of the letters of petitioner and he was entitled for additional two increments of ₹ 150 in his basic salary in addition to regular annual increment of ₹ 75 since there was a settlement under section 12(3) of the Act which provides two increments to the worker who completes postgraduation degree without availing any leave or any other assistance from respondent and evenafter repeated demands made by the petitioner the

respondent gave a vexatious reply on 07-05-2008 that the financial status of the respondent corporation is not good by thus the increments are not able to provide and that denial of two additional increments to the petitioner by respondent since September 2000 caused immense monetary loss to the petitioner and also affected his wage increments and subsequent wage fixations throughout his career and that the respondent is liable to pay monetary loss which comes to the tune of ₹ 4,77,471.00 as calculated in the claim petition and that he was not given review for his service even after completion of 20 years of service and has prayed to pass an Award for a total sum of ₹ 4,77,471.00 and to revise the wage scale of the petitioner to ₹ 13,715 with effect from 01-09-2010 by holding that the industrial dispute raised by the petitioner is justified.

3. On the other hand, the respondent corporation has filed a counter statement denying all the allegations made by the petitioner in his claim statement and stated that the petitioner was appointed by the Head Office at Chennai and as per the terms and conditions agreed between the petitioner and the management only Chennai is having the jurisdiction to solve any issues arises and one of the branches at Puducherry the Branch Manager is not having the power to represent the corporation and moreover, the Managing Director is only at Chennai and if at all, the petitioner is having any grievance, he should have approached the appropriate authority at Chennai not before this authority and Court at Pondicherry and that the respondent Corporation is running the busses only for the welfare of the people and it is not running in a profitable manner and it is also highly indebted and there are number of accident cases and the buses have been attached still in various Courts and moreover, as far as the respondent's Corporation is acting as per Act and also the settlement arrived at Corporation and the trade unions and that the petitioner is not a law abiding citizen and he is an intransigent and irreconcilable man and there are number of complaints as against him and on the basis of the complaints, number of memos and charge-sheets were issued for his misconduct and misbehavior and he is having the habit of creating troubles not only to the management but, also to his colleagues for that he was suspended from 09-11-2006 till 01-02-2008 and that the petitioner has not obtained any permission for his alleged graduation and the alleged graduation no way helpful to the corporation and hence, prayed to dismiss the petition.

4. In the course of enquiry on the side of the petitioner PW.1 was examined and Ex.P1 to Ex.P24 were marked and on the side of the respondent RW.1 was examined and Ex.R1 to Ex.R36 were marked. Both sides are heard. The pleadings of the parties, the evidence let in by either sides and the exhibits marked on both side are carefully considered.

5. *The point for consideration is:*

Whether the dispute raised by the petitioner against the respondent management over non-payment of wage increments for completion of postgraduation, financial assistance to his children and revision of basic pay as per the wage settlement are justified or not and if, justified, what is the relief entitled to the petitioner?

6. It is the evidence of the petitioner PW.1 that there was a settlement between the majority union of the respondent corporation and the respondent management wherein, the respondent management has increased the educational allowance payable to one child of workers studying in any professional courses from ₹ 1,000 to ₹ 1,500 and her daughter had joined in B.E., at Salem Government College in the year 2006 and completed the course in the year 2010 and though, he applied for the education allowance at ₹ 1,500 per year from 2006 to 2010 to the tune of ₹ 6,000 the said educational allowance was not sanctioned and that he has completed Master's degree in M.A., Sociology through distance education at Annamalai University in September, 2000 and he applied for two additional increments on 21-07-2004 and also sent reminders on 15-09-2004, 19-10-2004, 13-08-2006 and 16-04-2008 and that the respondent management never responded to his letters and it is also agreed by the management in 12(3) settlement executed in the year 1989 that the worker who completes postgraduation without availing any leave or any other assistance from the respondent is entitled for two additional special increments and the same has not been granted to him though, he has applied for which the respondent management has given reply on 07-05-2008 that due to the financial status of the respondent Corporation they are not able to give the said two increments and that therefore, he has claimed two additional increments since September 2000 and it is the further evidence of the petitioner PW.1 that the respondent management has failed to give regular annual increments of ₹ 75 per year in March 2001 and March 2002 and the same was not paid to him from March-2001 to February-2003 i.e., for 24 months at the rate of ₹ 75 per month and he has also claimed two additional increments from

September-2000 as he has completed the Master's degree in M.A., Sociology and wage settlement was arrived in the year 2005 and basic wage of the Senior Conductor was enhanced to ₹ 1,950 and from September 2005 his pay was ₹ 4,665 with the revision of basic wage ought to have been fixed at ₹ 6,615 and has claimed ₹ 4,77,471.00 for his total monetary loss.

7. In support of his case, the petitioner has exhibited Ex.P1 to Ex.P24. Ex.P1 is the copy of transfer order of the petitioner from Chennai to Puducherry Depot, dated 07-05-1990. Ex.P2 is the copy of extract of clause No. 73 at Page No. 74 of the book published by CITU union showing salient features of 7th 12(3) settlement book. Ex.P3 is the copy of request letter given by the petitioner to respondent for educational allowance to his daughter (2 Nos.) along with Provisional Certificate of petitioner's daughter for BE (EEE) on 06-03-2009 and 08-03-2011. Ex.P4 is the copy of page No. 92 of the book published by CITU union on the 7th 12(3) settlement between union and respondent showing details of two advance increments for completion of degree. Ex.P5 is the copy of request letter given by petitioner to the respondents on various dates. Ex.P6 is the copy of request letter sent by the petitioner to respondent toward non-payment of his two years advance increments. Ex.P7 is the Copy of petitioner's monthly salary slips for the period 1995 to 2015. Ex.P8 is the copy of request letter given by petitioner to respondent for arrears of revision in his salary as per 10th 12(3) settlement for the months from September, 2007 to January, 2008. Ex.P9 is the copy of wage settlement arrear bill of petitioner. Ex.P10 is the copy of relevant portion of Tamil Nadu Governments order *vide* G.O. No. 189 for payment of interest. Ex.P11 is the copy of the 12(3) settlement effective from 01-09-2010. Ex.P12 is the copy of the 12(3) settlement effective from 01-09-2013. Ex.P13 is the copy of letter given by petitioner to respondent seeking arrears in basic wages as per respondent's letter claiming payment of basic wages. Ex.P14 is the copy of comparative salary bill of Mr. Subramani showing payment of basic wages to him. Ex.P15 to Ex.P24 are the copy of RTI application submitted by the petitioner on various dates.

8. From the above documents, it is learnt to this Court that the petitioner was working at the respondent establishment and subsequently, he was transferred to Puducherry Depot and as per 7th 12(3) settlement it is clear that the management had enhanced the education allowance from ₹ 1,000 to ₹ 1,500 to one of the

children of the worker and it is agreed by the respondent Corporation that two additional increments would be given to the workers who completed the Master's degree in M.A. Sociology and this petitioner has applied for the said two additional increments for completion of Master's degree in M.A. Sociology and also applied for educational allowance on 06-03-2009 to the respondent corporation and also has submitted several letters subsequently for the sanction of the same and it is also clear that he has sent several representations on various dates claiming the said increments and that there was several wage settlements executed between the management transport corporation and the union under 12(3) settlements.

9. To disprove the case of the petitioner the respondent corporation also has examined RW.1 and marked Ex.R1 to Ex.R36. Ex.R1 is the copy of authorization letter, dated 31-08-2014. Ex.R2 is the copy of letter of industrial dispute raised by the petitioner before the office of the Labour Commissioner on 13-12-2011. Ex.R3 and Ex.R4 are notice of remarks received from the Labour Officer (Conciliation), Puducherry. Ex.R5 is the photocopy of the objections filed by the opposite party before the Labour Officer (Conciliation), Puducherry. Ex.R7 to Ex.R9 are the photocopy of settlements entered under section 12(3) of the Industrial Disputes Act, 1947 on various dates. Ex.R10 is the photocopy of the Government order issued by the Finance (BPE) Department. Ex.R11 is the attendance and LLP detail extract of the petitioner from January-1999 to July-2017. Ex.R12 is the N.Q.D. statement of the petitioner from 1989 to January-2015. Ex.R13 to Ex.R17 are photocopy of punishment order issued to petitioner on various dates. Ex.R18 is the photocopy of order issued to petitioner. Ex.R19 is the photocopy of second show cause notice issued to petitioner. Ex.R20 is the photocopy of order, dated 17-06-2016. Ex.R21 is the photocopy of order issued to petitioner on 28-06-2016. Ex.R22 is the photocopy of second show cause notice issued to petitioner on 28-06-2016. Ex.R23 is the photocopy of order issued to petitioner, dated 01-07-2016. Ex.R24 is the photocopy of order issued to petitioner. Ex.R25 is the photocopy of punishment order issued to petitioner, dated 05-05-2016. Ex.R26 is the photocopy of revised order issued to petitioner. Ex.R27 is the photocopy of acknowledgement of receipt of service record copy by the petitioner. Ex.R28 is the photocopy of extract of service record of petitioner. Ex.R29 to Ex.R31 are photocopy of salary receipts of the petitioner. Ex.R32

is the photocopy of the wage settlement arrear bill for period from 09-2007 to 01-2008 for the petitioner. Ex.R33 is the photocopy of punishment order issued to petitioner on 22-11-2000. Ex.R34 is the photocopy of revised order issued to petitioner. Ex.R35 is the photocopy of right to Information Commissioner Judgment order of case No. 19216/Eng/F/2013, dated 24-02-2014. Ex.R36 is the photocopy of right to Information Commissioner Judgment order of case No. 11197/Eng/F/2014. These documents would go to show that the respondent corporation has taken several disciplinary action against the petitioner for misbehavior and misconduct committed by him and punishments were given to the petitioner.

10. From the evidence and pleadings of both the parties it can be noticed that the following facts are admitted by either sides that the petitioner was working at the respondent corporation for about 25 years as Conductor and he was working at Puducherry Depot from 2005 as Conductor and he has applied for two wage increments as he has completed Master's degree in M.A., Sociology at Annamalai University through distance education and it is also not disputed by either sides that the petitioner has applied for education allowance for his daughter who studied B.E at Salem Government College for the. period from 2006-2010 and the request of the petitioner was denied by the respondent management stating that the financial crisis existing in the respondent corporation. Further, it is not disputed by the respondent corporation that the petitioner has not applied with sufficient documents for additional two increments for completion of his degree and it is also not disputed by the respondent management that the daughter of the petitioner has not studied B.E., course at Salem Government College.

11. Now, it is the case of the petitioner though he is entitled for two additional increments for the completion of postgraduation of M.A. Sociology under settlement arrived at between the parties in the year 1989 and he is entitled for education allowance for his daughter under settlement arrived at between the parties in the year 2005 the respondent management has refused to sanction the same even after giving sufficient proof for completion of master degree in M.A. Sociology and that his daughter has studied B.E professional course from 2006 to 2010 at Salem Government College. On the other hand, it is contended by the respondent management that since the petitioner has not completed M.A. Sociology post graduation in the regular study and he has completed the same through distance education, he is not entitled for any increments.

12. On this aspect the evidence and documents are carefully perused. From the documents filed by the petitioner it is clear that workers who has completed M.A. Sociology have to be given two additional increments apart from the regular increments and it is also agreed by the respondent corporation that they have to give education allowance of ₹ 1,500 for one of the child of the worker who studying professional course. It is not disputed by the respondent management that the daughter of the petitioner was not studying at Salem Government College for the period from 2006 to 2010. The RW.1 who deposed on behalf of Respondent Corporation has stated in his cross examination as follows:

“.....31-1-2005-ல் எங்களுக்கும் மெஜாரிட்டி யூனியனுக்கும் ஒரு ஒப்பந்தம் போடப்பட்டுள்ளது. அதை நாங்கள் நீதிமன்றத்தில் தாக்கல் செய்திருக்கிறோம். எங்கள் நிறுவனத்தில் பணிபுரியும் தொழிலாளர்களின் பிள்ளைகளுக்கு படிப்பு உதவித் தொகையாக 1000 முதல் 1500 வரை கொடுக்க வேண்டும் என்று 1995-க்கு முன்பே ஒப்பந்தம் உள்ளது. மதசாஆ 3-ன் படி மனுதாரர் எங்கள் நிறுவனத்தில் அவரது குழந்தையின் படிப்பு உதவித் தொகை கேட்டு மனு கொடுத்துள்ளார் என்றால் சரிதான். அந்தக் கல்வி உதவித் தொகை வழங்கப்படவில்லை. எங்கள் நிறுவனத்தில் நிதி நிலையை கருத்தில் கொண்டு வழங்கப்படவில்லை. அந்த ஒப்பந்தத்தில் நிதி நிலை சரியில்லை என்றால் கொடுக்கப்பட வேண்டாம் என்று சொல்லப்படவில்லை. அதனால் அந்த தொகை மனுதாரருக்கு வட்டியோடு வழங்கப்படவேண்டும் என்றால் சரியல்ல. பட்ட மேல் படிப்பு படித்தவர்களுக்கு இரண்டு இன்கிரிமெண்ட் கொடுக்கவேண்டும் என்று ஒப்பந்தம் இருக்கிறதா என்றால் சரிதான். 2004 மற்றும் 2005 ஆண்டுகளில் பட்ட மேற்படிப்பு படித்ததற்கான இன்கிரிமெண்ட் கேட்டு கடிதங்கள் கொடுத்திருப்பதாக சொன்னால் சரியல்ல. அது அவருக்கு வழங்கப்படவில்லை. ஏனென்றால் 10-ஆம் வகுப்பு படித்துவிட்டு பிளஸ் 2 மற்றும் பட்ட படிப்பு படிக்காமலேயே பட்ட மேற்படிப்பு படிப்பு படித்துள்ளார். அதனால் அவருக்கு வழங்கப்படவில்லை. நிதிநிலை சரியில்லாத காரணத்தினாலும் அந்த தொகை அவருக்கு வழங்கப்படவில்லை. M.A. Sociology படித்திருந்தால் இல்லை. M.A. Social Work படித்திருந்தால் உண்டு. ஆனால் மனுதாரர் கொடுத்திருந்த கடிதங்களுக்கு நாங்கள் இன்கிரிமெண்ட் கொடுக்கமுடியாது என்று நாங்கள் காரணம் கொடுத்திருக்கிறோமா என்றால் இல்லை. முறைப்படி அவர் படிக்காத காரணத்தினால் அவருக்கு இன்கிரிமெண்ட் கொடுக்கமுடியாது என்று சொல்லியிருக்கிறோமா என்றால் அப்படி சொல்லவில்லை. ஆனால் நிதி நிலையை பற்றி சொல்லியிருக்கிறோம். ஒப்பந்தத்தில் குறிப்பிட்டு மேற்படி பட்ட மேற்படிப்பு படித்திருக்கவேண்டும். அப்படி படிக்கவில்லை என்றால் கிடை யாது என்று சொல்லப்படவில்லை என்றால் சரியல்ல. M.A. Sociology-ம் M.A. Social Work-ம் ஒரே படிப்பு தான் என்றால் அது பற்றி எனக்கு தெரியாது. 75 + 75-யை

150 அரசு நிதி செயலரின் வழிகாட்டுதல்களின் அடிப்படையில் தான் நடக்க வேண்டும். செப்டம்பர் 2004 முதலே அவருக்கு 2 இன்கிரிமெண்டுகள் 75 + 75-யை 150 கொடுத்திருக்க வேண்டும் என்றால் சரியல்ல. மதசாதி 24-ன் படி மனுதாரருக்கு 1-21995-ல் ரூ. 1,130 அடிப்படை சம்பளமாக இருக்க வேண்டும் என்றால் சரிதான். மதசாதி 7 வரிசையின் படி அவருக்கு 1-2-1995 ₹ 1,115 என்று அடிப்படை சம்பளம் கொடுக்கப்பட்டுள்ளதாக கண்டுள்ளது. RTI தகவலில் அந்த 15-ஐ தான் முறைப்படி கொடுத்து விட்டிருப்பதாக சொன்னால் சரிதான். அதற்கு ஆவணம் எதுவும் நீதிமன்றத்தில் தாக்கல் செய்யவில்லை. 1-2-1995-ல் அவருக்கு 1,115-ல் அடிப்படை சம்பளம் குறிப்பிட்டு மேல் முறையீட்டிற்கு பின்பு 1,130-க்கு அடிப்படை சம்பளம் உயர்த்தப்பட்டு அவருக்கு அரியர்ஸ் ஆக தரவேண்டிய தொகையும் சேர்த்தது தான் அவருக்கு அரியர்ஸ் ஆக தரப்பட்டுள்ளது. அவர் நிர்வாக இயக்குநரிடம் மேல் முறையீடு செய்து தான் அவருக்கு 15 ரூபாய் உயர்த்தப்பட்டுள்ளது. மனுதாரருக்கு 1-2-1995-ல் ₹ 1,130 அடிப்படை சம்பளம் ஆக கொடுக்க வேண்டும் என மேல் முறையீட்டில் தீர்மானிக்கப்பட்ட பிறகு 2011 ஆண்டு வரையில் ஏற்பட்ட செட்டில்மெண்டில் அதனால் அவருக்கு முறையாக ஏத்தி கொடுக்கவில்லை என்றும் 1-2-1995-ல் 1,130 ஏத்தி கொடுத்திருந்தால் இடையில் ஏற்பட்ட 4 செட்டில்மெண்டுகள் மூலமாக அவருக்கு அதிக சம்பளம் நிர்ணயிக்கப்பட்டு அதிக அரியர்ஸ் வழங்கப்பட வேண்டும் என்று சொன்னால் அது பற்றி எனக்கு தெரியாது. 1-2-1995-ல் அவருக்கு அடிப்படை சம்பளம் ₹ 15 குறைந்திருப்பது தவறுதலாக ஏற்பட்டது அல்ல ஆனால் ஒழுங்கு நடவடிக்கையில் தான் ஏற்பட்டது. நான் பொய் சாட்சியம் அளிக்கிறேன் என்றால் சரியல்ல. 2005-ஆம் ஆண்டுக்கு பிறகு அவர் மேல் உள்ள ஒழுங்கு நடவடிக்கையை தாக்கல் செய்திருக்கிறோம் என்றால் சரிதான். மனுதாரருக்கு வருடாந்திர அடிப்படை சம்பளம் 1992-லிருந்து 2002-ஆம் ஆண்டு வரை கொடுக்க வேண்டும் என்று கண்டுள்ளது. 2003-ஆம் ஆண்டு முதல் அடிப்படை சம்பள ஊதிய உயர்வு 2003 ஆண்டு முதல் 11-வது மாதத்திற்கு மாற்றப்பட்டுள்ளது என்றால் சரிதான்.....”.

From the above evidence it is clear that the petitioner has applied for two additional increments for completion of his Master's degree in Sociology as per the 12(3) settlement executed in the year 1989 and that there was a settlement under section 12(3) of the Act arrived at between the management and the majority union of the respondent corporation on 31-08-2005 wherein, the educational allowance was enhanced from ₹ 1,000 to ₹ 1,500 to the children of the workers of the respondent corporation and it is also admitted by RW.1 who has deposed on behalf of the respondent corporation that there is a settlement that two additional increments have to be given to the workers who have completed the postgraduation in

M.A., Social Work but, he denied the person who has completed the postgraduation in M.A., Sociology is entitled for such additional increments. As there is no difference between M.A., Sociology and M.A., Social work, it is clear that the petitioner is entitled for such two additional increments from the date of his completion of postgraduation. Furthermore, it is admitted by RW.1 the witness who examined on behalf of the management corporation that both the applications filed by the petitioner for educational allowance and two additional increments was replied stating that financial position of the respondent corporation is not possible to give such additional increments and educational allowance to the petitioner and therefore, the reason stated by the respondent management for not giving additional increments to the petitioner and not sanctioning educational allowance to the petitioner on the ground that financial crises was existing at the respondent Corporation cannot be accepted and the respondent Corporation as agreed in the 12(3) settlement is liable to pay such two additional increments for the completion of his Master's degree in Sociology and wage revision to the petitioner.

13. Furthermore, though, the respondent has filed several documents to establish the fact that the petitioner has committed misconduct and misbehavior it would not restrain the petitioner to get the benefit as per 12(3) settlement *i.e.*, two additional increments apart from annual increment for the period from September-2000 and to get the educational allowance to his daughter for about four years from 2006 to 2010 and therefore, the case of the petitioner is clearly established by him that he is entitled for two additional increments as he has completed the postgraduation in M.A.,(Sociology) and also entitled for educational allowance for his daughter who has studied B.E from 2006 to 2010 at Government College, Salem and as the worker of the respondent corporation, the petitioner is also entitled for revision of wage as per the wage settlements arrived between the employees and the respondent management and that therefore, the petitioner is also entitled for wage revision as per the wage settlements arrived at between the respondent corporation and its employment union and hence, it is to held that the industrial dispute raised by the petitioner against the respondent corporation over non-payment of wage increments for completion of postgraduation, financial assistance to his children and revision of basic pay as per the wage settlement is justified and the petitioner is entitled for the relief as claimed by him in the claim petition.

14. In the result, the petition is allowed and the industrial dispute raised by the petitioner against the respondent corporation over non-payment of wage increments for completion of postgraduation, financial assistance to his children and revision of basic pay as per the wage settlement is justified and Award is passed directing the respondent corporation to pay two additional increments to the petitioner from September-2000 for completion of postgraduation and also to pay children educational allowance to the petitioner and also to give pay revision as per the settlements arrived at between the management and its employees union to the petitioner as claimed in the claim petition. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 03rd day of March, 2018.

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

List of petitioner's witness:

PW.1 —28-03-2017 Vanajamunian

List of petitioner's exhibits:

Ex.P1 —07-05-1990 Copy of transfer order of the petitioner from Chennai to Puducherry Depot.

Ex.P2 — Copy of extract of clause No. 73 at Page No.74 of the book published by CITU union showing salient features of 7th 12(3) settlement book.

Ex.P3 —06-03-2009 Copy of request letter given
08-03-2011 by the petitioner to respondent for education allowance to his daughter (2 Nos.) along with Provisional Certificate of petitioner's daughter for BE (EEE).

Ex.P4 — Copy of page No. 92 of the book published by CITU union on the 7th 12(3) settlement between union and respondent showing details of two advance increments for completion of degree.

Ex.P5—21-07-2004 Copy of request letter given
15-09-2004 by petitioner to the
19-10-2004 respondent to include his
16-12-2005 M.A., degree in his service
13-08-2006 records and his
postgraduation degree
certificate with M.A degree
certificate (5Nos.).

Ex.P6 —22-08-2008 Copy of request letter sent
20-05-2012 by the petitioner to respondent toward non-payment of his two years advance increments (2 Nos.).

Ex.P7 — 1995 to Copy of petitioner's monthly
2015 Salary slips, showing non-payment of mandatory 2 increments on completion of postgraduation degree.

Ex.P8 —10-06-2008 Copy of request letter given
20-10-2008 by petitioner to respondent for arrears of revision in his salary as per 10th 12(30) settlement for the months from September, 2007 to January, 2008 (2 Nos.).

Ex.P9 — Copy of wage settlement arrear bill of petitioner showing non-payment of his basic wage as per the 10th 12(3) settlement from September 2007 to January 2008 and comparative arrear bill of Mr. Karunanidhi showing payment of similar wages to him. (2 Nos.).

Ex.P10—29-09-1998 Copy of relevant portion of Tamil Nadu Governments order *vide* G.O. No. 189 for payment of interest.

Ex.P11 —22-01-2011 Copy of the 12(3) settlement effective from 01-09-2010.

Ex.P12—13-04-2015 Copy of the 12(3) settlement effective from 01-09-2013.

Ex.P13—14-10-2015	Copy of letter given by petitioner to respondent seeking arrears in basic wages as per respondent's letter claiming payment of basic wages.	Ex.P20—24-02-2009	Copy of RTI appeal filed by the petitioner as against the information furnished for RTI application, dated 30-12-2008 along with reply given by respondent, dated 27-02-2009.
Ex.P14— August 2013 August 2015	Copy of comparative, salary bill of Mr. Subramani showing payment of basic wages to him (2 Nos.).	Ex.P21—29-04-2009	Copy of RTI application submitted by the petitioner for seeking information for non-payment of his two advance increments along with reply given by respondent, dated 09-10-2009.
Ex.P15—16-04-2008	Copy of RTI application submitted by the petitioner for seeking information for non-payment of his two advance increments along with reply given by respondent, dated 07-05-2008.	Ex.P22—15-12-2009	Copy of RTI application submitted by the petitioner fowl seeking information regarding the person who are all receiving the two advance increments from 1989 along with reply given by respondent, dated 07-01-2010.
Ex.P16—14-07-2008	Copy of RTI application submitted by the petitioner for seeking information for non-payment of his two advance increments along with reply given by respondent, dated 29-07-2008.	Ex.P23—05-04-2010	Copy of RTI application submitted by the petitioner for seeking information for educational allowance to his daughter V.M. Sivasankari along with reply given by respondent, dated 03-05-2010.
Ex.P17—27-09-2008	Copy of RTI application submitted by the petitioner for seeking information for non-replying to his letter, dated 22-08-2008 for nonpayment of his two advance increments along with reply given by respondent, dated 14-10-2008.	Ex.P24—04-05-2013	Copy of RTI application submitted by the petitioner for seeking information for non-payment of his two advance increments along with reply given by respondent, dated 30-05-2013.
Ex.P18—03-12-2008	Copy of RTI application submitted by the petitioner for seeking information for non payment of his two advance increments along with reply given by respondent, dated 16-12-2008.	<i>List of respondent's witness:</i>	
Ex.P19—30-12-2008	Copy of RTI application submitted by the petitioner for seeking information for non-payment of his two advance increments along with reply given by respondent, dated 06-01-2009.	RW.1 —19-09-2017 Pradeep Vaseekaran	
		<i>List of respondent's exhibits:</i>	
		Ex.R1 —31-08-2014	Copy of authorisation letter.
		Ex.R2 —13-12-2011	Copy of letter of industrial dispute raised by the petitioner before the Office of the Labour Commissioner.
		Ex.R3 —11-01-2012	Notice of remarks received from the Labour Officer (Conciliation), Puducherry.

Ex.R4 —20-01-2012	Notice of remarks received from the Labour Officer (Conciliation), Puducherry.	Ex.R20—17-06-2016	Photocopy of order.
Ex.R5 —26-04-2012	Photocopy of the objections filed by the opposite party before the Labour Officer (Conciliation), Puducherry.	Ex.R21—28-06-2016	Photocopy of order issued to petitioner.
Ex.R6 —31-08-2005	Photocopy of settlement entered under section 12(3) of the Industrial Disputes Act, 1947.	Ex.R22—28-06-2016	Photocopy of second show cause notice issued to petitioner.
Ex.R7 —06-02-2008	Photocopy of settlement entered under section 12(3) of the Industrial Disputes Act, 1947.	Ex.R23—01-07-2016	Photocopy of order issued to petitioner.
Ex.R8 —22-01-2011	Photocopy of settlement entered under section 12(3) of the Industrial Disputes Act, 1947.	Ex.R24—April-2016	Photocopy of order issued to petitioner.
Ex.R9 —13-04-2015	Photocopy of settlement entered under section 12(3) of the Industrial Disputes Act, 1947.	Ex.R25—05-05-2016	Photocopy of punishment order issued to petitioner.
Ex.R10—21-01-2002	Photocopy of the Government order issued by the Finance (BPE) Department.	Ex.R26—17-05-2016	Photocopy of revised order issued to petitioner.
Ex.R11—05-08-2017	Attendance and LLP detail extract of the petitioner from January-1999 to July-2017.	Ex.R27—24-08-2016	Photocopy of acknowledgement of receipt of service record copy by the petitioner.
Ex.R12—05-08-2017	N.Q.D. statement of the petitioner from 1989 to January-2015.	Ex.R28 —	Photocopy of extract of service record of petitioner.
Ex.R13—03-11-2005	Photocopy of punishment order issued to petitioner.	Ex.R29— June-2017	Photocopy of salary receipt of the petitioner.
Ex.R14—03-07-2006	Photocopy of punishment order issued to petitioner (No. 510).	Ex.R30— July-2017	Photocopy of salary receipt of the petitioner.
Ex.R15—03-07-2006	Photocopy of punishment order issued to petitioner (No. 512).	Ex.R31— August 2017	Photocopy of salary receipt of the petitioner.
Ex.R16 —09-08-2006	Photocopy of punishment order issued to petitioner.	Ex.R32 —	Photocopy of the wage settlement arrear bill for period from 09-2007 to 01-2008 for the petitioner.
Ex.R17—04-11-2011	Photocopy of punishment order issued to petitioner.	Ex.R33—22-11-2000	Photocopy of punishment order issued to petitioner.
Ex.R18—23-11-2015	Photocopy of order issued to petitioner.	Ex.R34—20-03-2013	Photocopy of revised order issued to petitioner.
Ex.R19—03-05-2016	Photocopy of second show cause notice issued to petitioner.	Ex.R35—27-02-2014	Photocopy of right to Information Commissioner Judgment order of case No. 19216/Eng./F/2013, dated 24-02-2014.
		Ex.R36—02-06-2015	Photocopy of right to Information Commissioner Judgment order of case No. 11197/Eng./F/2014.

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

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 57/Lab./AIL/T/2018,
Puducherry, dated 9th April 2018)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 83/2012, dated 6-3-2018 of the Labour Court, Puducherry, in respect of the Industrial Dispute between Management of M/s. Cannanore Spinning & Weaving Mills, Pallore, Mahe and Rajiv Ji Memorial Trust, Kannur, over termination of the services of Thiru R.K. Manoharan-Award of the Labour Court, Puducherry, has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. MOUTTOULINGAM,

Under Secretary to Government (Labour).

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

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

Tuesday, the 6th day of March, 2018

I.D. (L) No. 83/2012

1. The Chairman,
Rajiv ji Memorial Trust (S.C. and S.T),
Zam Zam Complex. South Bazar
Kakkad Road, Kannur.
 2. Manoharan R.K. Petitioners
- Versus*

The General Manager,
M/s. Cannanore Spinning and Weaving Mills,
(A Unit of National Textile
Corporation Limited, New Delhi),
Pallore-673 333, Mahe, Puducherry. . . Respondent.

This industrial dispute coming on 28-02-2018 before me for final hearing in the presence of Tvl. M.D. Thomas, Advocate for the petitioner and Thiru T.C. Valsarajan. Advocate for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This Industrial Dispute has been referred by the Government as per the G.O. Rt. No. 30/AIL/Lab./J/2011, dated 07.02.2011 for adjudicating the following

(a) Whether the dispute raised by the Rajiv ji Memorial Trust, Kannur, against the management of M/s. Cannanore Spinning and Weaving Mills, Pallore over termination of the services of Thiru R.K. Manoharan is justified or not?

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

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

The above reference originally taken on file by the Sub-Court at Mahe which was being functioned as Labour Court in I.D. No. 01/2011 and subsequently, when this Industrial Tribunal-cum-Labour Court established in the year 2012, the case has been transferred to this Court and this case was taken on file by renumbering it as I.D. (L) No. 83/2012.

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

The first petitioner is a trust, constituted for the purpose of upliftment and protection of its members belonging to SC and ST community. The representation was submitted by the second petitioner regarding the denial of his employment by the respondent. The second petitioner joined in the service under respondent management as an employee Muster Roll No. 59 in the simplex department on 16-04-1977. The respondent management has not given proper protection of employment to the second petitioner and also he was not approved as a permanent employee. When the second petitioner enlightened his eligibility to become a permanent employee the respondent instead of appointing him as a permanent employee, terminated him from service violating all norms and rules of natural justice. Since, the second petitioner belongs to Malayan Community which is a Scheduled Caste in Kerala State he is entitled to protection of employment. The respondent was reluctant make the second petitioner as a permanent employee though, he is having 17 years service. There is a caste discrimination shown towards second petitioner by the respondent. The respondent is not complying the reservation guaranteed to the persons belonging to the Schedule Caste and Schedule Tribe. The second petitioner was terminated from service on 10-02-1994 and subsequently, he was permitted to work as a Gate Badali with effect from 20-09-2004. Eventhough,

the second petitioner had worked as Gate Badali, the respondent has not provided sufficient daily work to him with a view to gradually remove the second petitioner from the position of Gate Badali. Subsequently, the respondent removed the name of the second petitioner from the Badali register in the month of June 2010 without affording an opportunity to hear the side of the second petitioner. The respondent has not issued any show cause notice or conducted any enquiry against second petitioner in order to terminate him from the service. The respondent acted without any legal basis and manipulated and fabricated documents which are in the custody of the respondent with a view to deny the employment of second petitioner. Therefore, the first petitioner prayed this Court to pass an Award directing the respondent to reinstate the second petitioner as a permanent employee in simplex department and to direct the respondent to pay the arrears of salary and other benefits from 10-02-1994 till the date of reinstatement.

3. The averments in the claim statement of the second petitioner, in brief, are as follows :

The second petitioner joined in the service under respondent management as an employee Muster Roll No. 59 in the simplex department on 16-04-1977. The second petitioner belongs to Schedule Caste community and appointed under reservation of the said category and he worked under the respondent with full honest and sincerity. The second petitioner was not made permanent and hence, he submitted the said fact before the respondent. The respondent management instead of appointing him as a permanent employee terminated him from service in violation of all norms of natural justice. The second petitioner belongs to Malayan Community which is a Scheduled Caste in Kerala State and hence, he is entitled to protection of employment. The respondent shown caste discrimination towards the second petitioner and only on that count he was denied employment. The second petitioner was terminated from service on 10-02-1994. The said order of termination was challenged by the second petitioner and an application was submitted before the Labour Department, Puducherry. It was ordered by the Labour Court to reinstate the second petitioner but, the respondent for one or other reason best known to them deliberately not reinstated him. Subsequently, the second petitioner was permitted to work as a Gate Badali with effect from 20-09-2004. Eventhough, the second petitioner had permitted to work as a Gate Badali, the respondent has not provided sufficient daily work to him with a view to gradually remove him from the position of Gate Badali. The respondent removed the name of the second

petitioner from the Badali register in the month of June 2010 without affording an opportunity to hear the side of the second petitioner. The respondent done all the atrocities against the second petitioner without any legal basis. The action of the respondent is highly illegal and arbitrary. The respondent have manipulated and fabricated documents in order to deny the legitimate right of the second petitioner. Hence, the second petitioner is entitled to reinstating as permanent employee in simplex department and therefore, prayed this Court to pass an Award directing the respondent to reinstate the second petitioner as a permanent employee in simplex department and to direct the respondent to pay the arrears of salary and other benefits from 10-02-1994 till the date of reinstatement.

4. The brief averments in the written statement filed by the respondent are as follows:

The respondent denied the entire allegations and averments as contained in the claim petition and stated that the petitioner was a permanent employee of the respondent Mill and none of the officials of the management has shown any caste discrimination either against claim petitioner or against other workers in the Mill. The action was taken by the management only due to the absence in the duty on the part of the claim petitioner. The claim petitioner was a chronic and habitual absentee in duty. Because of this, the then management reverted him to Badali as a disciplinary measure under clause 11 (1) of the Mill Standing Order as per Office Order No. 3486, dated 09-11-1992. The said fact was also well known to the claim petitioner who accepted the same and worked as Badli. The claim petitioner was also given warning that his name will be removed from Badali register, in case he could not complete 70 days of attendance within 3 months from 09-11-1992 onwards. The claim petitioner was irregular in duty and he continued his habit of absence in duty and he was not attending even a single day work from January 1994 to 10-02-1994. As per the order, dated 10-02-1994, he was removed from Badali register from 10-02-1994 because, he was continuously absent from January 1994 to 10th February 1994. As per section 2A or 2(k) of Industrial Disputes Act either the first petitioner or the second petitioner have no right to file a claim petition or to raise an industrial dispute before any forum. Therefore, the issue in the claim petition cannot be decided before this Court. The Labour Court is not having jurisdiction to entertain this claim petition. As no claim petition was filed by the claim petitioner before raising of dispute, there is no industrial dispute in existence and the reference to this Court is bad in law and hence,

this proceedings is not maintainable. The first petitioner is not having any connection with this respondent and is not a trade union. The first petitioner has no right to represent before any Labour Court as per law. As per section 2A or 2(c) of the Industrial Disputes Act, no right is available a single work man to raise a dispute in the given circumstances. The claim petitioner had challenged the order of the management, dated 10-02-1994 before the Assistant Labour Inspector, Mahe. Consequent to the petition, there was an agreement signed by the claim petitioner and management before the Assistant Labour Officer, Mahe on 14-09-1994 and in that agreement, the claim petitioner had been reinstated as trained Gate Badli with effect from 28-09-1994. Evenafter, the agreement the claim petitioner had never improved his attendance in duty and he was a chronic and habitual absentee in duty. The claim- petitioner was permitted to do work as and when he was present. But, the claim petitioner had never improved his attendance in duty and he was a chronic and habitual absentee. Evenafter, the agreement, the claim petitioner had never improved his attendance and he has not shown even a sign of improvement and he continued to be a chronic and habitual absentee. The claim petitioner is working at All India Radio as a Tabala Artist and he is attending there regularly and he occasionally comes to the Mill. The continuous absence in duty is highly detrimental to the running of the Mill. The action taken by the Mill is honest, *bona fide* and fully justified in the facts and circumstances of the matter. Even now, on 13-10-2011 the name of the claim petitioner is borne in trained Gate Badli records and register and his name is not removed even now. He will be given work in the Mill as and when there is work to be allotted to him and the petitioner is present on such days on which work is available to be allotted to him. Hence, there is no subject at all to be decided by this Court as there is no pending dispute in the matter. No claim petition could be legally filed directly before the Court as there is no provision for the same in any of the nature. Hence, the above proceeding is not maintainable. The claim petitioner is not entitled to get any relief as prayed in the claim petition. Therefore, prayed this Court to dismiss the claim petition.

5. In the course of enquiry on the side of the petitioner WW.1 and WW.2 were examined and Ex.P1 was marked. However, evenafter granting sufficient opportunities WW.2 has not turned up before this Court for subjecting himself for cross-examination of respondent side and hence, the oral evidence of WW.2 and Ex.P1 marked through WW.2 was eschewed by this Court. On the side of the respondent RW.1 was examined and Ex.R1 was marked. Both sides are heard. The

pleadings of the parties, the evidence let in by either sides and the exhibits marked on both sides are carefully considered. On the side of the respondent argument notes was filed and the same was carefully considered. In support of his case, the learned Counsel for the respondent has relied upon the order passed in W.P. No. 33756 of 2012 and M.P. Nos. 2 of 2012 and 1 of 2013- All India General Insurance Obc Vs. United India Insurance Company.

6. *The point for consideration is:*

Whether the dispute raised by the first petitioner against the respondent management over termination of the services of Thiru R.K. Manoharan the second petitioner is justified or not and if, justified, what is the relief entitled to the said R.K. Manoharan?

7. It is the evidence of WW.1 that the second petitioner joined in the service at the respondent establishment on 16-04-1977 and his muster roll number is 59 and he was appointed under reservation of the Schedule Caste community category and that the second petitioner was not made permanent by the respondent management and hence, he has asked the management to give permanent status and instead of appointing him as a permanent employee, the respondent management terminated him from service without following the principles of natural justice and that the second petitioner is a protected employee as he belongs to Scheduled Caste in Kerala and only on the caste discrimination the second petitioner was denied employment on 10-02-1994 and hence, he raised the Industrial Dispute before the Labour Department, Puducherry and even then the respondent management has not reinstated the second petitioner and only permitted the second petitioner to work as a Gate Badali and thereafter, the respondent has not provided sufficient daily work to the second petitioner with a view to gradually remove the second petitioner from the position of Gate Badali and that the name of the second petitioner was also removed from the Badali register in the month of June-2010 without affording an opportunity to hear his side and that therefore, the termination made by the respondent is highly illegal and arbitrary and the respondent have manipulated and fabricated documents in order to deny the legitimate right of the second petitioner. In support of his oral evidence, no document has been exhibited by WW.1 to corroborate the case of the petitioners.

8. It is the evidence of RW.1 that the second petitioner is not entitled for protection of employment and the respondent has not shown caste discrimination towards the second petitioner and the second petitioner was

a chronic and habitual absentee in duty and therefore, the management has reverted him to Badali as a disciplinary measure under clause 11 (1) of the Mill standing order on 09-11-1992 and that after giving warning letter, the name of the second petitioner was removed from Badali as he has not completed 70 days of attendance within 3 months from 09-11-1992 onwards and the second petitioner was irregular in duty and was continuously absent from January 1994 to 10-02-1994 and his name was removed from Badali register from 10-02-1994 and the second petitioner had been reinstated as trained Gate Badli with effect from 28-09-1994 as per the agreement made between the management and the second petitioner on 14-09-1994 and the second petitioner had never improved his attendance in duty and he was a chronic and habitual absentee in duty and that the first petitioner is not having any right to represent before the Labour Court as it is not a trade union and as per the provision, a single workman cannot raise the industrial dispute and that the second petitioner is not entitled for any relief as claimed by him and that the RW.I has denied the other evidence of PW.I and in support of his evidence the RW.I has exhibited the copy of the standing order of the respondent Mill.

9. From the pleadings and evidence of both the parties it is clear that the following facts are admitted by either side that the second petitioner had been in service at the respondent establishment and he was terminated from service on 10-02-1994 against which the second petitioner has raised the Industrial Dispute before the Conciliation Officer wherein, both the parties have agreed and the respondent management has accepted to reinstate the second petitioner as a trained Gate Badly with effect from 28-09-1994 and that the second petitioner was permitted to work as a Gate Badli by the respondent and thereafter, action was taken by the respondent management in the year 2010 for the absence of second petitioner who has raised the Industrial Dispute before the Conciliation Officer and the conciliation was failed and thereafter, the Government has made the reference to this Court to adjudicate the dispute.

10. It is the case of the petitioners that the second petitioner was terminated from service on 10-02-1994 and the second petitioner has and subsequently, the second petitioner was permitted by the respondent to work as a Gate Badli and the respondent removed the name of the second petitioner from Badli register in the month of June-2010 without giving opportunity to the second petitioner and that the second petitioner is entitled for reinstatement and for back wages.

11. It is the contention of the respondent management that first petitioner is not the union registered under the Trade union Act and it is only the trust and hence, it cannot raise the Industrial Dispute and as the first petitioner is not registered under the Trade Union Act, it cannot represent the second petitioner and in support of his contention the learned Counsel for the respondent has relied upon the order passed by the Hon'ble High Court of Madras in W.P. No. 33756 of 2012 and M.P. Nos. 2 of 2012 and 1 of 2013, wherein, it has been held that,

".....For the purpose of representing the workmen, a group must first of all get itself registered under the Trade Union Act and thereafter, seek for recognition as held by the Supreme Court in Food Corporation of India Staff Union Vs. Food Corporation of India reported in 1995 Supp (1) SCC 678...."

From the above observation it is clear that registered Trade Union can represent the workmen. In this case apart from the first petitioner the second petitioner also has filed a claim statement. Further, from the reference it is clear that the plea of the respondent that the first petitioner is not a registered union and has no *locus standi* to raise the dispute has not been taken up before the Conciliation Officer who has sent the failure report to the Government and further, the first petitioner also is a registered trust under the Act and it can represent the petitioner worker as it has got interest over the employees and therefore, the contention of the respondent management that the first petitioner has no *locus standi* to raise the Industrial Dispute for the second petitioner is not sustainable and it cannot be accepted and therefore, it is to be held that the Industrial Dispute raised by the second petitioner though, first petitioner is sustainable.

12. The second contention of the respondent management is that the second petitioner was a chronic and habitual absentee in duty and action was taken by the management and the management reverted him to Badly as a disciplinary measure under section 11(1) of the standing order of the Mill, the Ex.R1. It is learnt from claim petition filed by the second petitioner that after he was terminated from service on 10-02-1994, he challenged it before, the Labour Department and then on agreement entered between the parties, he was permitted to work as a Gate Badly. From the admission of the respondent management it is clear that the second petitioner is the employee who had been in service as a permanent worker at the respondent establishment and subsequently, he was reverted to Badly worker in the year 1994 and it is not disputed by the respondent management that the second petitioner had not been in service from 16-04-1977 at the respondent

establishment. These facts would go to show that the second petitioner was in service at the respondent establishment from 1977 and after 15 years he was reverted back as Badli worker against which the second petitioner has raised the Industrial Dispute before the Conciliation Officer wherein, it was agreed by the respondent management to reinstate the second petitioner with effect from 28-09-1994. Though, the respondent management has contended that the second petitioner was not a permanent employee of the respondent Mill it is not denied by the respondent management that the second petitioner has joined at the respondent establishment in the year 1977 and he had been service for about 15 years while he was reverted back as a Badli worker and it is stated by the respondent management that the second petitioner has not turned up for work since from June 2010 and however, it was admitted by RW.1 that till 13-10-2011, the name of the second petitioner was borne in trained Gate Badli register and his name has not been removed from the said register even now. These facts would go to show-that the second petitioner was in service at the respondent establishment for about 15 years and thereafter, he was reverted as Badli and subsequently, his name was removed from Badli register in the month of June-2010 without affording any opportunity to the second petitioner and thereafter, the first petitioner as well as the second petitioner has raised the Industrial Dispute over non-employment of the second petitioner and for other reliefs. Though, it was stated by the respondent in the counter that consequent to the petition, there was an agreement signed by the claim petitioner and management before the Assistant Labour Officer. Mahe on 14-09-1994 wherein, the claim petitioner had been reinstated as trained Gate Badli with effect from 28-09-1994 to establish the same no such agreement was exhibited before this Court by the respondent.

13. Further, though, the petitioners had not been exhibited any documents to prove that the second petitioner had been in service at the respondent establishment for about 15 years, then he was reverted by the management and thereafter he was permitted to work as Badli, it is admitted by the respondent management that the second petitioner had been in service at their establishment and he was reverted back as a Badli Worker and subsequently, the dispute was arose between the parties. Further, the respondent management witness RW.1 has stated in his cross examination as follows:

"I do not know the date of appointment of the petitioner. I have verified the service records of the petitioner. The petitioner was the permanent employee thereafter, he was reverted as Badali worker. It is suggested by the petitioner that the petitioner had

joined on 16-04-1977 at our establishment in simplex department in master roll No. 59 is denied by me since I do not know the exact date of appointment. I could not admit or deny the above facts since, I did not go through, the records and so far, I have not verified the records. I do not know the exact date of termination. If, the employee belonging to Scheduled Caste, he is entitled for protection. But, I do not know whether, the petitioner is belonging to Scheduled Caste or not. We have not received any certificate from the petitioner that he is belonging to Scheduled Caste. We did not conduct any domestic enquiry to terminate the petitioner from service. As per the certificate produced before this Court by the petitioner as Ex.P1. I cannot confirm that the petitioner belongs to Scheduled Caste. The certificate is issued by Tahsildar, Thalassery. Before, the petitioner was reverted as Badali Worker from the permanent service. I do not know whether there was any domestic enquiry conducted by the management or not. It is suggested by the petitioner, I am not able to say anything about the petitioner. Since, I have not produced any records is denied by me. The suggestion that we have not conducted any proper enquiry against the petitioner before terminating the petitioner is denied by me".

From the above evidence, it is clear and corroborated by RW.1 that the second petitioner had been in service at the respondent establishment as a permanent worker and subsequently, he was reverted back as Badli Worker and that the respondent management has not conducted any domestic enquiry against the second petitioner for the misconduct of unauthorised absence before terminating the second petitioner from service and even they have not issued any show-cause notice or charge-memo. regarding the alleged unauthorised absence claimed by the respondent management in their counter and therefore, from the evidence of RW.1 it is corroborated that the second petitioner had been in service at the respondent establishment as a permanent worker from 16-04-1977 and without conducting enquiry and without giving opportunity, the second petitioner was terminated from service.

14. Further, except the said standing order no document is exhibited before this Court by the respondent management to establish that opportunities were given to the second petitioner before reverting him as a Badli Worker though, he had been in service for about 15 years at the respondent establishment and to establish that the second petitioner has committed unauthorized absence from duty. Admittedly, no domestic enquiry was conducted by the respondent management

before removing the name of the second petitioner from the Badli register and it is also not established by the respondent management that the second petitioner was in continuous absence in attending the duty by filing the attendance register before this Court and that therefore, it is to be inferred that the second petitioner has not committed any misconduct of unauthorised absence and hence, it is decided that the industrial dispute raised by the first petitioner against the respondent management over termination of the services of second petitioner is justified.

15. As this Court has decided that the industrial dispute raised by the first petitioner against the respondent management over termination of the services of second petitioner is justified, it is to be decided whether the second petitioner is entitled for reinstatement as claimed by the petitioners. It is learnt from the records the deposition which was eschewed by this Court that the second petitioner might have attained the age of superannuation and therefore, now, the second petitioner could not be reinstated by the respondent management. Considering the facts and circumstances of this case and considering the age of the second petitioner, the order of reinstatement would not be passed by this Tribunal and hence, compensation has to be fixed tentatively. Therefore, considering the above-facts and circumstances and the long period of litigation pending before this Tribunal, this Tribunal is inclined to pass an Award directing the respondent management to pay the compensation of ₹ 3,00,000 (Rupees three lakhs only) to the second petitioner for the unlawful termination of his service.

16. In the result, the petition is allowed and the industrial dispute raised by the first petitioner against the respondent management over termination of the services of second petitioner Thiru R.K. Manoharan is justified and Award is passed directing the respondent management to pay the compensation of ₹ 3,00,000 (Rupees three lakhs only) to the second petitioner for the unlawful termination of his service. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 06th day of March, 2018.

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

List of petitioner's witnesses:

- WW.1 —09-02-2012 — Lakshmanan Panakkadan
WW.2 —09-02-2012 — R.K. Manoharan
(eschewed)

List of petitioner's exhibit:

- Ex.P1 — 12-01-2012 — True copy of community certificate issued by Tahsildar, Thalassery to the second petitioner R.K. Manoharan.

List of respondent's witness:

- RW.1 — 16-02-2018— S.S. Vasan

List of respondent's exhibit:

- Ex.R1 — 1967 — Copy of Standing Order, Cannanore Spinning and Weaving Mill Limited, Unit No. 11.

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

புதுச்சேரி அரசு

இந்து சமய நிறுவனங்கள் மற்றும் வக்ஃபு துறை

(அரசு ஆணை பலவகை எண் 58/இசநி/கோ.3/2018,
புதுச்சேரி, நாள் 2018 (வர்பு மே 17 23 உ))

ஆணை

புதுச்சேரி மாநிலம், புதுச்சேரி வட்டாரம், மண்ணாடிப்பட்டு கொம்பூன், விநாயகம்பட்டு, அருள்மிகு முத்துமாரியம்மன் திரௌபதையம்மன், அங்காளம்மன் மற்றும் ஐயனாரப்பன் தேவஸ்தானத்திற்கு, அரசு ஆணை பலவகை எண் 14/இசநி/கோ.3/2014, நாள் 22-5-2014-ன் மூலம் ஓர் அறங்காவலர் வாரியம் அமைக்கப்பட்டது. அவ்வறங்காவலர் வாரியத்தின் பதவிக்காலம் முடிவடைந்த நிலையில், மேற்குறிப்பிட்ட தேவஸ்தானத்தை நிர்வகிப்பதற்கு வேறு ஒரு புதிய அறங்காவலர் வாரியம் அமைக்க வேண்டியது இன்றியமையாததாகிறது.

2. எனவே, 1972-ஆம் ஆண்டு புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம் 4(1)-ஆம் பிரிவின்கீழ் வழங்கப்பட்டுள்ள அதிகாரங்களைச் செலுத்தி, புதுச்சேரி மாநிலம், புதுச்சேரி வட்டாரம், மண்ணாடிப்பட்டு கொம்பூன், விநாயகம்பட்டு, அருள்மிகு முத்துமாரியம்மன் திரௌபதையம்மன், அங்காளம்மன் மற்றும் ஐயனாரப்பன் தேவஸ்தானத்திற்கு, பின்வரும் ஐந்து நபர்களைக் கொண்ட ஓர் அறங்காவலர் வாரியத்தை அரசு உடனடியாக அமைக்கிறது:-

திருவாளர்கள் :

- (1) S. பெரியண்ணன், . . . தலைவர்
த/பெ. சுப்ரமணி,
எண் 105, அய்யனார் கோயில் தெரு,
விநாயகம்பட்டு, புதுச்சேரி.