



# புதுச்சேரி மாநில அரசிதழ்

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### பொருளடக்கம்

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**GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT**

(G.O. Rt. No. 201/Lab./AIL/T/2017,  
Puducherry, dated 29th December 2017)

**NOTIFICATION**

Whereas, an award in I.D (T) No. 11/2011 dated 07-11-2017 of Industrial Tribunal, Puducherry in respect of the Industrial Dispute between the management of M/s. PASIC, Puducherry, M/s. PONLAIT, Puducherry and Directorate of School Education, Education Department, Puducherry and President, M/s. Education Department Bread and Milk Workers Union, No. 3, 13th Cross street, Avvai Nagar, Lawspet, Puducherry-605 009, over non-payment of bonus from 2003 onwards has been received;

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

(By order)

**E. VALLAVAN,**  
Commissioner of Labour-cum-  
Additional Secretary to Government (Labour).

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

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

*Tuesday, the 7th day of November 2017.*

**I.D. (L) No. 11/2011**

The President,  
M/s. Education Department  
Bread and Milk Workers Union,  
No.3, 13th Cross Street,  
Avvai Nagar, Lawspet,  
Puducherry-605 008. . .Petitioner

*Versus*

1. The Managing Director,  
M/s. PASIC, Thattanchavady,  
Puducherry.

2. The Managing Director,  
M/s. PONLAIT, Vazhudavur Road,  
Kurumampet,  
Puducherry.

3. The Director,  
Directorate of School Education,  
Education Department,  
Puducherry.

. . Respondents

This Industrial Dispute coming on 25-10-2017 before me for final hearing in the presence of Thiru S. Ramakrishnan, Counsel for the petitioner, Thiru B. Mohandoss, Counsel for the first respondent, Thiruvalargal L. Swaminathan and I. Ilankumar, Counsel for the second respondent, Thiru S. Tamilselvan, Counsel for the third respondent on record and subsequently when the case was posted for filing of counter, the third respondent being called absent and set *ex parte*, 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. 179/AIL/Lab./J/2011, dated 24-10-2011 for adjudicating the following:

(i) Whether there exists any employer-employee relationship between the management of M/s. Puducherry Agro Service and Industries Corporation Limited/The Pondicherry Co-operative Milk Producers' Union Limited, No. P.I and the Education Department Bread and Milk Workers Union? If so, to give appropriate direction.

(ii) Whether the claim of the said workers for non-payment of bonus for the accounting year 2002-2003 till 2008-2009 as against the management of M/s. Puducherry Agro Service and Industries Corporation Limited/The Pondicherry Co-operative Milk Producers' Union Limited, No. P.I is justified? If not, to what relief the said workmen are entitled to?

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

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

The petitioner stated that in the year 2003, the Government of Puducherry has formulated two schemes in the Education Department, namely, (i) Shri Rajiv Gandhi Break-fast Scheme and (ii) Shri Rajiv Gandhi Evening Milk Scheme and that these two schemes are intended for the students studying from

Pre-primary to XII standard and Pre-primary to X standard respectively in the Government and Government Aided Private Schools in the Union territory of Puducherry and under these two schemes, (i) standardised hot milk of 150 ml. with 7 gms. of sugar and Britannia Glucose biscuits of 35 gms. are provided to the students after the morning assembly is over and before the commencement of classes by 9.30 a.m. and (ii) standardised hot milk of 150 ml with 7 gms of sugar after the classes are over by 4.30 p.m., daily and that these two schemes have been implemented with a view that the poor students will not be deprived of nutrition and also to attract poor students to Schools and thereby they get better education and on an average 2,54,692 students from 701 institutions are getting benefitted by these two schemes from all the four regions of the Union territory of Puducherry and that to ensure prompt and punctual supply of hot milk and biscuit in the morning and hot milk in the evening to the students, the Education Department has to make arrangements for procuring of milk by 6.00 a.m., and by 01.30 p.m., cleaned vessels for storing milk, stoves and fuel for boiling the milk, procuring and stacking of sugar and biscuit of good quality, procuring of stainless steel tumblers of required quantity, cleaning powders and other materials for cleaning these vessels then and there and mobilization of required manpower to perform all the above-mentioned works and in order to implement the above functions smoothly without any hitch, the Education Department, as it has no manpower, discussed with the management of PASIC in the year 2003 and later with the management of PONLAIT in the year 2008 and an arrangement was entered into with the PASIC at the first instance and at a later point of time with the PONLAIT on a single quotation basis.

It is further stated that in accordance with the agreement entered into, the PASIC/the PONLAIT used to send their workmen daily to the Schools allotted for them and the workmen so deputed by the PASIC/the PONLAIT, will arrive at the specified schools between 04.00 a.m. and 06.00 a.m. in the morning in accordance with the arrival of milk van and after collecting the required number of milk packets, clean the vessels for boiling the milk, tumblers for distribution of milk, clean the stove and keep the fuel ready and clean the premises and the milk packets will be opened and boiled only after the Headmaster of the School/Head of the Institution concerned or any other official deputed for that work in the school verify the number of milk packets received by the workmen and then only the boiling of milk will be commenced, the required quantity of sugar and biscuits will be supplied from the

custody of the Headmaster of the School/Head of the Institution concerned and then the distribution work will be started under the supervision of the Headmaster of the School/Head of the Institution concerned and once the distribution work is completed, the workmen deputed by the PASIC/the PONLAIT will clean the vessels and the premises and they will be permitted to leave the School after signing in the attendance provided by the PASIC/PONLAIT and again the abovesaid process is repeated commencing from 01.00 p.m., onwards for the distribution of hot milk with sugar to those students by 4.30 p.m.

It is further stated that as per the agreement entered into with the PASIC in the year 2003 by the Education Department, the PASIC supplied all the vessels, fuel, stove and cleaning materials and to avoid pilferage, the PASIC also supplied sugar and biscuits to the Headmaster/Head of the Institution concerned, to be kept in safe custody till they are distributed to the students and the PASIC placed indents with the Pondicherry Milk Co-operative Society or supplying necessary quantities of milk packets directly to the Schools concerned and that the PASIC deputed their own workmen to each and every School for the implementation of these schemes and that the Headmaster/Head of the Institution concerned will simply oversee whether the workmen deputed by the PASIC are discharging their duties properly and put their signatures daily in the attendance register, provided by the PASIC and the wages of every workman so deputed by the PASIC were paid by the officials of the PASIC before the expiry of the tenth day after the last day of the wage period in respect of which the wages are payable under due acknowledgment and the responsibility of implementing these two schemes are undertaken by the Education Department but, the execution of supply of milk, sugar, biscuits, vessels, stoves, fuel, cleaning materials and the required number of workmen are vested with the PASIC and the total expenditure incurred, in executing the work by the PASIC will be reimbursed by the Education Department, once bills are raised with the Education Department by the PASIC.

It is further stated that all the details mentioned above are as such being continued to be performed by the PONLAIT from the year 2008 onwards, since the agreement was entered into between the Education Department and the PONLAIT from the year 2008 onwards and the quantum of expenditure incurred to the PASIC/the PONLAIT is calculated year-wise, since rates of items will vary and accordingly, the rate per student is calculated on the basis of agreement entered into between the Education Department and the PASIC/

the PONLAIT and the Education Department was very generous in giving options to revise the rate per student as quoted by the PASIC/the PONLAIT in case, the PASIC/the PONLAIT feel they are at loss or any loss incurred by paying bonus to their workmen deputed for the implementation of these schemes, then the PASIC and the PONLAIT are at liberty to quote the revised rates to the Government through the Education Department and made the loss good and that the expenditure so incurred by the PASIC the PONLAIT, in the implementation of these two schemes are settled then and thereby the Education Department as soon as the PASIC/the PONLAIT raise the bills with the Education Department and to implement these two schemes, the Education Department will simply reimburse the expenditure alone but, the vessels, food materials, milk, stoves, fuel are all the properties of the PASIC/the PONLAIT and the workmen are also of the PASIC/the PONLAIT and that the PASIC/the PONLAIT are on the wrong notion that since their workmen are working under the supervision of Headmaster/Head of the Institution concerned, the bonus should be paid by the Education Department and not by them and since, the employer-employee relationship exists between the PASIC/the PONLAIT and their workmen and also the PASIC/the PONLAIT are disbursing the wages to their workmen and as such the bonus should invariably be paid by them only.

It is further stated that eventhough the petitioner union members are the workmen of the PASIC/the PONLAIT, just for their identity sake, their union is termed as M/s. Education Department Bread and Milk Workers Union and as they are ordered to perform certain works by the PASIC/the PONLAIT therefore, they are entitled to receive bonus disbursed by their master alone *i.e.*, PASIC/the PONLAIT and their nature of work is neither intermittent nor seasonal but, it is perennial in nature since these workmen are employed throughout a year and altogether they are engaged for about more than 240 days in a year and as these workmen are employees of the PASIC/the PONLAIT and being employed by them in the Education Department on the basis of agreement entered into between the Education Department and the PASIC/the PONLAIT and the Education Department is regularly reimbursing the expenditure incurred by the PASIC/the PONLAIT in implementing these two schemes, it is the sole responsibility of the PASIC/the PONLAIT to disburse bonus to their own workmen and the PASIC failed to discharge their liability of disbursing minimum statutory bonus to their own workmen from 2003 onwards and the PONLAIT from 2008 onwards and they are bound to disburse bonus to their own

workmen, not the minimum bonus with interest but, the maximum bonus with interest after calculating the allocable surplus on any accounting year subject to a maximum of twenty percent their wages paid and while the Director of School Education, Education Department, Puducherry was impleaded as Respondent No. 3 as a necessary party the respondent No. 3 is also liable to pay the bonus to the petitioner from 2003 to till date since, both the schemes were implemented by the Department of respondent No. 3.

It is further stated that most of the workmen employed in this work are ladies and these ladies are from weaker section of society and they have preferred this work just to save their family from deprivation of certain monetary benefits to meet both ends and these women are toiling all along these years from 2003 onwards and moreover, they are not regularised and not even entitled to get any benefits such as leave, advances, ESIC benefits, *etc.*, and they were not paid wages during their leave period and their conditions is also very pitiable in nature and the Government is not at all considering to implement atleast some basic welfare measures and prayed this Court to declare that the workmen engaged by the PASIC are entitled to receive the maximum bonus from the year 2003 to 2007 from the respondent Nos. 1 and 3 and to declare that the workmen engaged by the PONLAIT are entitled to receive the minimum bonus from the year 2008 onwards from the respondent Nos. 2 and 3 and for some other reliefs.

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

The claim petition filed by the petitioner is not maintainable in law or on facts and stated that necessary particulars like the name and description of the person employed from the PASIC/the PONLAIT by the Education Department in respect of whom the reliefs are claimed are not mentioned in the claim petition and further the details of employment like how many persons worked for how many days, the total number of days worked, the rate of wages claimed for the workmen, *etc.*, and among the persons how many persons are sought to be declared as workmen of the first respondent and how many persons are sought to be declared as workmen of the second respondent are also not pointed out by the petitioner in the claim petition. One and the same person cannot be workman of 2 employees and as such it is obligatory on the part of the petitioner union to give separate list of employees of the first respondent and second respondent and in the absence of segregation of employees, the claim petition is defective in not

identifying the employer in relation to workmen for whom the claim has been made. Before the learned Conciliation Officer, there was a dispute raised by the petitioner union through representation, dated 15-10-2009 in which the claim for payment of bonus under the Payment of Bonus Act, 1965 was the subject matter of conciliation, but, before this Court the very same petitioner has made several claims which were not subject matter of the conciliation process. As per the provisions of the Industrial Disputes Act, 1947 a reference of an industrial dispute to the industrial tribunal can be made on failure of conciliation process. As all the reliefs except the bonus were not taken up for conciliation they cannot be taken for adjudication by this Tribunal. The claim made by the petitioner in so far as it relates to issues other than bonus may kindly be taken up as another preliminary issue and a finding may be given on the same in the first instance.

The persons engaged for the carrying out of the above said schedule are not employees. Even if, arguments sake if, they are considered as employees, then also they cannot make a claim for bonus by virtue of the provisions contained in section 32(iv) of the Payment of Bonus Act, 1965, PASIC being a Government of Puducherry undertaking. As such the issue relating to non maintainability of the claim against this respondent may also kindly be taken up as another preliminary issue before deciding the claim on merits. Out of the 10 reliefs claimed by the petitioner the reliefs (i), (ii), (iv) and (vi) alone has been claimed against the first respondent. The granting of first relief is beyond the scope of the jurisdiction of this Tribunal. The matters within the jurisdiction of Industrial Tribunals have been listed in the III Schedule of the Industrial Disputes Act, 1947. There are 11 items mentioned in the list. But, the relief claimed in the claim petition does not find a place in the list. As such the relief No. 1 claimed by the petitioner cannot be granted by this Tribunal as there is no jurisdiction for this Tribunal to adjudicate this matter. The dispute relating to the subject matter of the claim is not an individual dispute, it is a collective dispute pertaining to several workmen. In such a case the petitioner union should have a representative capacity to raise the dispute on behalf of the several workmen. The *locus standi* of the petitioner union to raise the dispute on behalf of the workmen may kindly be taken up as preliminary issue and be decided in the first instance before taking up the other issues involved in the claim petition.

The first respondent engaged some workmen purely, on temporary basis for the implementation of (a) Shri Rajiv Gandhi Breakfast Scheme and (b) Shri Rajiv Gandhi Evening Milk Scheme is true. Those persons were engaged on a daily rated and part time basis. They were all casuals engaged depending upon the need of the hour and they did not have any right to hold any particular post. In circular No. 6566/Edn./DE/PA/2002-2003, dated 03-09-2002 no where contemplates employment of any person by the implementing agency in respect of the scheme. The guidelines/procedures contemplate deputation of its own staffs by the Education Department the persons working in Schools for the implementation of the breakfast scheme. At no point of time in the implementation of the abovesaid scheme there was any condition stipulated whereby the PASIC should employ any person of its own for carrying out the scheme in its capacity as an implementing agency of the Education Department. In law, particularly in labour jurisprudence the concept of engagement of persons is different from concept of employment of persons. The persons engaged for the implementation of the scheme were at the disposal of the Head of the Educational Institutions whose students were benefited by the scheme. The management of the first respondent does not know the identity of the persons engaged by the Education Department in this regard and the Head of the Institutions were only maintaining the records of persons engaged on day to day basis. The very nature of the scheme and its implementation through the agency by way of contractual arrangement discloses that there is no master and servant relationship between the Education Department and the persons deputed for carrying out the scheme on the one hand and between the implementing agency (PASIC/PONLAIT) and the persons engaged for carrying out the scheme on the other hand. In the absence of master and servant relationship, there is no employment and on account of want of status of employees the persons engaged for the implementation of Rajiv Gandhi Breakfast Scheme are not eligible to make a claim for bonus. On the same reasoning the persons engaged in the above two schemes cannot claim the other reliefs also which find a place in the claim statement. The first respondent did not have complete administrative control over the persons engaged so as to make them employees of the first respondent. The association is confusing the *ex-gratia* payment granted by the Government with the concept of bonus as statutory right. No amount of monetary compensation as an *ex-gratia* payment can confer the status of an employee to anyone, who is otherwise not considered as an employee under the Bonus Act.

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

The industrial dispute filed by the petitioner is not maintainable either on law or facts. They agitate the claim of impleading the third respondent as a party to the proceedings when the reference made by the Government of Puducherry under section 10 of the Industrial dispute does not include the Director, Directorate of School Education, Education Department, Government of Puducherry. The first relief of the claim statement is highly whimsical as the claim petitioner union cannot claim the status of workman in two institutions namely M/s. PASIC and M/s. PONLAIT and as there exists no clarity the claim petition has to be dismissed. When the individual aggrieved workmen had not approached this Tribunal the claim petitioner union cannot espouse their cause in service matters, Trade Unions are precluded from championing the cause of the individual workmen and in the instant case the workmen are aggrieved against non-payment of Bonus from the year 2003 onwards and unless and until the status of the employer is determined neither the individual workmen nor the claim petitioner union can agitate their grievances as against the second respondent. The claim petitioner union without seeking the relief of the status of the employer under whom the Bread and Milk Workers are employed, the claim petitioner union cannot seek any relief from this Tribunal and more particularly, when the period of implementation of the Government scheme is vested with two instrumentalities of the state on different periods, it is obvious and necessary that the status of employment had to be determined at the initial instance without which none of the reliefs prayed by the claim petitioner union can be entertained by this Tribunal.

From the Academic year 2008-2009, Shri Rajiv Gandhi Breakfast Scheme was entrusted to PONLAIT to implement the said scheme and as per the said scheme, PONLAIT is only an implementing agency of the Education Department, Government of Puducherry and supplied diet articles on the ratio Fixed by the Education Department to the school children as per the indent received from the concerned School Principal/ Head Master/In-charge of the Diet Articles section. As per the Terms and conditions for the supply of diet articles, wages to the Milk boiling workers are to be borne only by the Transport Contractors whose vehicles are engaged for supply of milk through Tender process and PONLAIT neither effects any wages for the casual Bread and Milk Workers nor the said workers are under the Muster Rolls of PONLAIT even remotely. As there exist no Employer-Workmen

relationship between PONLAIT and the Casual Bread and Milk Workers, implementation of Statutory benefits and Payment of Bonus does not arise as Wages are not paid by PONLAIT and they are not in the Muster Rolls and will not fall under the Definition of section 2(s) of the Industrial Disputes Act, 1947. As the Government of Puducherry had entrusted the implementation of the said scheme to PONLAIT for the Academic year 2009-2010, ratios were quoted by the Administration of PONLAIT on the letter, dated 23-05-2009 addressed to the Chief Educational Officer, Education Department, Puducherry which contained the terms and conditions for supply of Diet Articles. Clause 4 of the said terms and conditions clearly stipulates that the Wages for the Milk Boiling employees will be given by the Transport Contractors as done by PASIC in the previous instances as the Casual Bread and Milk Workers are not Employees of PONLAIT.

5. Despite of due service of notice third respondent has appeared through their Counsel before this Tribunal and though the Counsel for the third respondent has filed vakalat, despite several opportunities, no counter was filed on behalf of the third respondent and hence the third respondent was set *ex-parte*. In the course of enquiry on the side of the petitioner PW1 was examined and Ex.PI to Ex.PI7 were marked and on the side of the first respondent RW1 was examined and Ex.R1 to Ex.R3 were marked. No evidence has been let in and no exhibits have been marked on the side of the second respondent. Argument heard.

6. *The point for consideration is:*

Whether there any employer-employee relationship exists between the management of first respondent/ second respondent and the petitioner union and whether the claim of the said workers for non-payment of bonus for the accounting year 2002-2003 till 2008-2009 as against the management of first respondent/second respondent is justified or not and what is the relief entitled to the said workmen.

7. The submission of both the parties, the evidence let in and the exhibits marked on by the side of the petitioner and first respondent are carefully considered. On the side of the petitioner, written argument and additional written argument was filed and the same were carefully considered. The learned Counsel for the second respondent also has filed a written argument and the same is also carefully considered. In support of his contention, the learned Counsel for the petitioner relied upon the citations in AIR 1957 SC 264, Appeal (Civil) 1407-1409 of 1998,

Writ Appeal No.998/2007 dated 01-05-2015 of the Hon'ble High Court, Andhra Pradesh, CWP. No. 17452/2006 dated 13-10-2009 of the Hon'ble High Court, Punjab and Haryana, Order dated 26-11-1973, the Hon'ble High Court, Orissa (Equivalent Citation: 1974 II LLJ 34 Ori.).

8. It is the evidence of PW1 that he is the President of the petitioner union and the members of the petitioner union were engaged as workers under Shri Rajiv Gandhi Break-fast Scheme and Shri Rajiv Gandhi Evening Milk Scheme formulated and implemented by the Government of Puducherry through Directorate of Education, Government of Puducherry in the year 2003 and that these schemes are intended for the welfare of the students and as the Education Department is not having sufficient man power to implement the said schemes the management of PASIC was contacted in the year 2003 and then the management of PONLAIT in the year 2008 and entered into an agreement implementing the schemes on single quotation basis and both the PASIC and PONLAIT deputed their workmen to each and every School to implement the scheme and that was supervised by the Headmaster of every School and wages to every workman so deputed was disbursed by the officials of PASIC till 2008 and thereafter, PONLAIT undertook the above process and the work performed by the workmen is neither intermittent nor seasonal but perennial in nature and the workmen are employed throughout a year and these workmen performed their duties without break and hence, they automatically eligible for receipt of bonus and that these workmen though employed by Education Department, they are deputed by PASIC and later on by PONLAIT to the Education Department and therefore, discharging of bonus is the sole responsibility of the PASIC/the PONLAIT and that the workmen are entitled to receive the bonus from PASIC from the year 2003 onwards and from PONLAT from the year 2008 onwards and that these workmen are entitled to receive the maximum bonus with interest after calculating the allocable surplus on any accounting year subject to a maximum of twenty percent of the wages paid to them and that the employer-employee relationship exists between the PASIC and the workmen for the period from 2003 to 2007 and the employer-employee relationship exists between the PONLAIT and the workmen for the period from 2008 onwards and as such the disbursement of bonus actually lies with the PASIC for the period from 2003 to 2007 and with the PONLAIT from the year 2008 onwards and that the petitioner union is not suffice to justify that the workmen are the employee of the Education Department, however, the said

nomenclature is actually intended to differentiate the persons who are normally engaged in the PASIC/ PONLAIT itself and they have been deputed by the PASIC/PONLAIT to the Education Department to be engaged in the Bread and Milk supply schemes to the students and as such the disbursement of bonus actually rests with the PASIC/the PONLAIT for the corresponding period respectively and the workmen were given ₹ 3,000 as wages for a month and later it gradually increases to ₹ 4,000 per month and from 2009 they are working without wages and that though the said workmen have been deputed to execute the two schemes, the Education Department as the principal employer utilized the services of the said workmen to perform the mid-day meals duties in addition to those two schemes.

9. In support of their case the petitioner union has exhibited Ex.P1 to Ex.P17. Ex.P1 is the copy of the Note No. 1-3/DSF/PA/2008 issued by the Director of School Education. Ex.P2 is the copy of the G.O. Rt. No. 186 issued by the Chief Secretariat (Education). Ex.P3 is the copy of the requisition for the rate of supply of hot milk and bread issued by the Chief Educational Officer in No. 455/CEO/SRBS/2008-09. Ex.P4 is the copy of the counter statement filed by the Managing Director, M/s.PONLAIT before the Labour Officer (Conciliation). Ex.P5 is the copy of the letter No. 455/CEO/SRBS/2009-10 of the Chief Educational Officer. Ex.P6 is the copy of the letter No. 455/CEO/SRBS/2011-12 of the Chief Educational Officer. Ex.P7 is the copy of the Writ Petition No. 27855/2010 filed by M/s. PONLAIT. Ex.P8 is the copy of Lok-Adalat order sheet in W.P. No. 27855/2010. Ex.P9 is the copy of application filed by the petitioner under the RTI Act before the Public Information Officer, Education Department along with the reply received. Ex.P10 is the copy of application filed by the petitioner under the RTI Act before the Public Information Officer, Education Department along with the reply received. Ex.P11 is the copy of application filed by the petitioner under the RTI Act before the Public Information Officer, M/s. PASIC along with the reply received. Ex.P12 is the copy of application filed by the petitioner under the RTI Act before the first Appellate Authority, M/s. PONLAIT along with the application under the RTI Act dated 14-12-2015 and the reply received thereon. Ex.P13 is the copy of application filed by the petitioner under the RTI Act before the first Appellate Authority, M/s. PONLAIT along with the application under the RTI Act dated 14-12-2015 and the reply received thereon. Ex.P14 is the copy of the letter by Manager (SMS), PONLAIT addressed to the Headmaster, Government Boys' Primary School, Muthialpet. Ex.P15 is the copy of the affidavit and petition in I.A. No. 142/2013 in I.D(T). No.11/2011. Ex.P16 is the copy of Order in I.A.No.142/2013 in I.D(T).No. 11/2011. Ex.P17 is the H4 Notice to R1.

10. On the other hand, in order to prove the case of the first respondent, RW1 was examined and Ex.R1 to Ex.R3 were marked. On perusal of case records and evidence let in and exhibits marked on by the side of petitioner and first respondent, it is clear that the petitioner union has raised the industrial dispute over the non-payment of bonus for the period 2003 to 2007 against the management of first respondent PASIC, Thattanchavady, Puducherry and from the year 2008 onwards against the management of second respondent PONLAIT, Kurumampet, Puducherry before the Conciliation Officer and on failure of the conciliation, the Government has referred this matter to this Tribunal and the case was taken on file in I.D(T).No. 11/2011 on 03-11-2011. When the I.D is pending before this Tribunal, the Director, Directorate of School Education, Education Department, Puducherry was impleaded as third respondent. The said reference is sent to this Tribunal to decide whether there is any relationship of employer and employee existing between the management of Puducherry Agro Service and Industries Corporation Limited/The Pondicherry Co-operative Milk Producers, Union Limited and Education Department Bread and Milk Workers Union and whether the petitioners are entitled for bonus for the accounting year 2002-2003 till 2008-2009 against the management of PASIC and after impleading of third respondent, the petitioner union has filed claim statement and first and second respondent have filed counter statement and though the Counsel for the third respondent has filed vakalat, despite several opportunities, no counter was filed on behalf of the third respondent and hence, the third respondent was set *ex-parte*. Now, the question before this Tribunal is that under whom the petitioner union members have worked and who has to pay the bonus to the members of the petitioner union.

11. Admittedly, in this case, all the union members are working for two schemes, namely, (i) Shri Rajiv Gandhi Break-fast Scheme and (ii) Shri Rajiv Ganshi Evening Milk Scheme under the first respondent from 2003 to 2007 and under the second respondent from 2008 onwards on behalf of the third respondent. The students in the pre-primary class to X standard respectively in the Government and Government Aided Private Schools in the Union territory of Puducherry have to be provided with standardized hot milk with sugar and biscuits in the morning and evening. It is not in dispute that the members of the petitioner union were working for the abovesaid scheme and they have not been paid bonus and it is also not in dispute that they are entitled for bonus and that therefore, it is the only question to be answered is who has to pay the bonus to the members of the petitioner union. It is the

contention of the first respondent that petitioner union members were appointed for implementation of Bread and Milk Breakfast Scheme and they have been paid by the Education Department through first respondent. The main argument of the second respondent is that petitioner union has failed to establish how many workers have been working? and period of service of the workmen and who have paid the wages to them and further PW1 has not obtained any authorization or power from the individual workman to raise the industrial dispute and the petitioners have not exhibited the attendance register even before the Conciliation Officer and without giving details of the workmen even enclose 588 workers are eligible for Bonus and had arrived some calculation in the proof affidavit and that the petitioners have not produced the wage slip of the workers and not chosen to examine any one of the so-called 588 workmen and no witness had been examined by the petitioner other than the PW1 to establish the relationship of employer and employee.

12. The petitioner union has exhibited Ex.P1 to Ex.P17 and it is learnt from the records that among the said documents, Ex.P8 is the Copy of the Hon'ble High Court Lok-Adalat order sheet passed in W.P. No. 27855/2010 which is the vital document which would disclose that while pending of this I.D. before this Tribunal the second respondent herein has filed a Writ Petition before the Hon'ble High Court in W.P. No. 27855 of 2010 in which, the Secretary to Government (Labour), Chief Secretariat, Puducherry is the first respondent, the Commissioner of Labour, Labour Department, Puducherry is the second respondent, the Labour Officer (Conciliation), Labour Department, Puducherry is the third respondent, the Director, Directorate of School Education, (Government of Puducherry is the fourth respondent and the Education Department Bread-Milk Workers Association is the fifth respondent in which the Hon'ble Madras High Court has passed an order in Lok Adalat which was held on 30-10-2012, which runs as follows:

“The dispute is as to who shall pay the bonus payable to the workers between the petitioner and the fourth respondent. It is seen that wages are being paid by the fourth respondent herein (Director, Directorate of School Education, Government of Puducherry) to the workers through the petitioner (Pondicherry Co-operative Milk Producers' Union). Naturally, therefore, it follows that the payment of bonus shall also be made by the fourth respondent. It is needless to point out that the fourth respondent who pay the wages through their own department also pay the bonus through the petitioner. There is no dispute about payment of bonus.



2. It is seen from the letter produced that wages are being disbursed through the petitioner on behalf of the fourth respondent. Therefore, the bonus also shall be paid by the fourth respondent through the petitioner.

3. We feel that Government should interfere and direct the fourth respondent to pay bonus to the workers through the petitioner. It is evident that just like wages paid by the fourth respondent, bonus under Payment of Bonus Act shall also be paid by the fourth respondent through the petitioner. It is duty of the Government of Puducherry to release the amount incurred for payment of bonus to the workers, as being followed in respect of wages."

From the above order of the Hon'ble High Court, it is also learnt that one Advocate Mr. A.S. Bharathi has appeared for the first, second and third respondents in Writ Petition and the same Advocate also has appeared for the fourth respondent the Director, Directorate of School Education, Government of Puducherry in the said Writ Petition who is the third respondent in this I.D. It is further learnt from the above Lok Adalat order that amicable settlement was arrived in the Lok Adalat and the above order has been passed by Lok Adalat headed by Hon'ble Justice directing the fourth respondent the Director, Directorate of School Education, Government of Puducherry to pay bonus to the members of the petitioner union who is the fifth respondent in the above Writ Petition stating that the wages are being paid by the fourth respondent the Director, Directorate of School Education, Government of Puducherry to the workers through the Pondicherry Co-operative Milk Producers' Union Limited the second respondent herein and it is also mentioned in the above order that it is also the duty of the Government of Puducherry to release the amount incurred for payment of bonus to the workers.

13. Further, it is also learnt from the Lok Adalat order that the second respondent and third respondent and petitioner in the present I.D. are the parties to the said Writ Petition and that therefore, it will bind all of them. No Writ or Writ Appeal is filed against the said order of the Lok Adalat passed by the Hon'ble High Court and that therefore, it is very clear from the Lok Adalat order passed by the Hon'ble High Court under Ex.P8 that the Director, Directorate of School Education, Government of Puducherry the fourth respondent in said Writ Petition was directed to pay bonus to the members of the petitioner union for the service rendered by the workers under the PONLAIT, the petitioner in Writ Petition through whom the wages were disbursed to the workers and that therefore, as

the Lok Adalat of the Hon'ble High Court of Madras has already passed an order directing the Education Department third respondent herein to pay Bonus to the members of the petitioner union and the same was accepted by the petitioner union and the second and third respondents and the said Bonus was also directed to disburse through the Pondicherry Co-operative Milk Producers' Union Limited the second respondent herein. Therefore, it is clearly established by the petitioner union that the relationship of employer-employee was existing between the third respondent Education Department as the principal employer and the members of the petitioner union and as they have paid wages to the members of the petitioner union through first and second respondents and admittedly, Bonus has not been paid to the members of petitioner union from 2002-2003. Hence, it is to be held that the industrial dispute raised by the petitioner union over non-payment of bonus for the accounting year 2002-2003 till 2008-2009 as against the management of all the respondents is justified and as such, the petitioner union members are entitled for the relief as claimed by them.

14. In the result, the petition is allowed and it is held that the industrial dispute raised by the petitioner union over non-payment of bonus for the accounting year 2002-2003 till 2008-2009 as against the management of all the respondents is justified as relationship of employer-employee was existing between the members of the petitioner union and the management of the respondents and Award is passed by directing the third respondent to pay Bonus to the members of the petitioner union through the second respondent. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 07th day of November, 2017.

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

*List of petitioner's witness:*

PW.1— 07-01-2015 — P. Lakshumanaswami.

*List of petitioner's exhibits:*

Ex.P1 — 11-01-2008—Copy of the Note No.1-3/DSF/PA/2008 issued by the Director of School Education.

Ex.P2 — 26-09-2008—Copy of the G. O. Rt. No. 186 issued by the Chief Secretariat (Education).

Ex.P3 — 16-02-2009—Copy of the requisition for the rate of supply of hot milk and bread issued by the Chief Educational Officer in No. 455/CEO/SRBS/2008-09.	the application under the RTI Act dated 14-12-2015 and the reply received thereon.
Ex.P4 — 20-11-2009—Copy of the counter statement filed by the Managing Director, M/s. PONLAIT before the Labour Officer (Conciliation).	Ex.P13 — 28-01-2016— Copy of application filed by the petitioner under the RTI Act before the first Appellate Authority, M/s. PONLAIT along with the application under the RTI Act, dated 14-12-2015 and the reply received thereon.
Ex.P5 — 23-12-2009—Copy of the letter No. 455/CEO/SRBS/2009-10 of the Chief Educational Officer.	Ex.P14 — 21-08-2016— Copy of the letter by Manager (SMS), PONLAIT addressed to the Headmaster, Government Boys' Primary School, Muthialpet.
Ex.P6 — 06-07-2011—Copy of the letter No. 455/CEO/SRBS/2011-12 of the Chief Educational Officer.	Ex.P15 — 06-08-2013— Copy of the affidavit and petition in I.A.No.142/2013 in LD(T). No. 11/2011.
Ex.P7 — 29-11-2010—Copy of the Writ Petition No. 27855/2010 filed by M/s. PONLAIT.	Ex.P16 — 02-05-2014— Order in I.A. No. 142/2013 LD(T). No. 11/2011.
Ex.P8 — 30-10-2010— Copy of Lok-Adalat order sheet in W.P. No. 27855/2010.	Ex.P17 — 30-11-2015—H4 Notice to R1.
Ex.P9 — 14-12-2015— Copy of application filed by the petitioner under the RTI Act before the Public Information Officer, Education Department along with the reply received.	<i>List of respondent's witness:</i> RW.1 — 05-05-2017 — A. Ramamourti
Ex.P10 — 14-12-2015— Copy of application filed by the petitioner under the RTI Act before the Public Information Officer, Education Department along with the reply received.	<i>List of respondent's exhibits:</i> Ex.R1 — 22-01-2003— Copy of the order under G.O. Ms. No. 9 of the Chief Secretariat (Education), Government of Puducherry.
Ex.P11 — 14-12-2015— Copy of application filed by the petitioner under the RTI Act before the Public Information Officer, M/s. PASIC along with the reply received.	Ex.R2 — 04-03-2003— Copy of Circular No. 6566/Edn./DE/PA/2002-03 of Department of Education, Government of Puducherry showing the guidelines for implementation of Shri Rajiv Gandhi Breakfast Scheme.
Ex.P12 — 28-01-2016— Copy of application filed by the petitioner under the RTI Act before the first Appellate Authority; M/s. PONLAIT along with	Ex.R3 — 21-01-2010— Copy of reply submitted by the first respondent to the Labour Officer (Conciliation).
	<i>List of second and third respondent's witnesses:</i> Nil <i>List of second and third respondent's exhibits:</i> Nil <b>G. THANENDRAN,</b> Presiding Officer, Industrial Tribunal-cum-Labour Court, Puducherry.

## GOVERNMENT OF PUDUCHERRY

## LABOUR DEPARTMENT

(G.O. Rt. No. 01/Lab./AIL/T/2018,  
Puducherry, dated 3rd January 2018)

## NOTIFICATION

Whereas, an Award in Industrial Dispute (L) No. 37/2012, dated 3-9-2017 of the Labour Court, Puducherry in respect of the Industrial Dispute between the management of M/s. Soundraraja Mills, Nedungadu, Karaikal and its workman Thiru S.R. Rajendiran represented by the Secretary, CITU Nedungadu, Soundraraja Mills Thozhilalagal Sangam, Nedungadu, Karaikal, over denial of promotion to Thiru S.R. Rajendiran, has been received;

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

(By order)

**E. VALLAVAN,**  
Commissioner of Labour-cum-  
Additional Secretary to Government, (Labour).

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

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

*Friday, the 3rd day of September, 2017*

**I.D. (L) No. 37/2012**

Nedungadu Soundraraja  
Mill workers union,  
CITU, Nedungadu,  
Karaikal.

.. Petitioner

*Versus*

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

.. Respondent

This Industrial Dispute coming on 31-10-2017 before me for final hearing in the presence of Thiru N. Ramar, representative for the petitioner, Thiru G. Jagadharaj, 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. 83/2004/Lab./AIL/J, dated 11-06-2004 for adjudicating the following:-

(i) Whether the denial of promotion to the worker Thiru S.R. Rajendiran by the management of M/s. Soundraraja Mills, Karaikal is justified or not?

(ii) If not justified, to what relief, the said workman 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 union that the workman S.R. Rajendiran joined in the respondent Mill in the year 1983 and his service was confirmed as Reliever on 01-07-1990 and subsequently on 01-06-1998 he was promoted as Bale Breaker Attender and he was doing his work sincerely for which he has got incentive bonus and he was initially the member of INTUC union which was supporting the management and the respondent management has introduced apprentice scheme against the permanent workers and more than 800 women employees were appointed for meager wages while the permanent post are vacant and some of the employees were waiting for promotion and that the Vice-President of the respondent mill misappropriated more than ₹ 40,00,000 from the workers Co-operative Credit Society for which the INTUC union failed to take the matter to the respondent and hence, the members of the INTUC as well as S.R. Rajendran dissatisfied with the INTUC union and formed CITU union in which the said S.R. Rajendran was an Executive Committee member and the said S.R. Rajendran questioned the management regarding illegal activities of the management and filed a criminal case against the Vice-President of the respondent Mill and that therefore, the respondent management has compelled the workman S.R. Rajendran to left from CITU union and threatened him and to victimise him the said S.R. Rajendran was refused work of Skutcher Tenter and that was allotted to relievers Ilango, Thirumalairajan, Kamaraj, Manohar, Ramesh, Ravichandran, Suresh, Lakshmanan and Badlies Ramesh and Suresh who were juniors to him by which the said S.R. Rajendran has lost ₹ 300 per month and though out of 7 Skutcher Tenter posts 5 post was vacant the workman S.R. Rajendran was not given that work and only his relievers and badly workers have been appointed by the management and though the workman S.R. Rajendran was qualified for the post he has not been promoted to the post and only juniors of him have been appointed to the post and that therefore, the petitioner union has

raised the industrial dispute before the Conciliation Officer on 25-09-2003 in which the respondent management has not denied that they have appointed relievers as Skutcher Tenter. Though the workman S.R. Rajendran was having seniority than the other and having sufficient qualification and skill the respondent management to victimise the said workman has not granted promotion to him and that therefore, praying this Court to pass an order directing the respondent to give promotion to the said workman.

3. On the other hand, it is stated by the respondent in the counter statement that the industrial dispute raised by the petitioner union on behalf of S.R. Rajendran is infructuous since, he has already been dismissed from service by the respondent by order, dated 23-10-2004 and that the petitioner union has no representative character and *locus standi* to raise the present dispute since it has no adequate members in the respondent mill and has not followed the statutory and mandatory legal procedure to raise the present dispute in that it has not conducted a General Body meeting of its so called members who were workmen of the respondent nor the workmen attending the meeting passed any resolution authorising the General Secretary to raise the present dispute against the respondent and that the averments contained in the claim statement are baseless, false and lacking in *bona fide* and that workman S.R. Rajendran was working as a Bale Breaker Attender in the blow room section of the respondent mill from 01-06-1998 and during his service, he was warned, fined, suspended on various occasions for committing very grave and serious acts of misconduct and despite several punishments being imposed on him, he had not rectified his faults and due to lack of discipline in his work, he was denied promotion and that a worker is a senior it is not legal to compel any management to give him promotion because the promotion is based on merit also and that while giving promotion the management has taken into consideration seniority cum merit and since, the delinquent S.R. Rajendran has been punished on various occasions he was not given promotion and that the relievers were not given promotion and that the petitioner in No.2100/2003 has already raised an industrial dispute before the Labour Court for the same matter *i.e.* for promotion for S.R. Rajendran and the same was withdrawn by the petitioner union and hence, the petitioner is estopped from raising the same dispute which is not in accordance with law and it is liable to be rejected by this Court.

4. In the course of enquiry on the side of the petitioner PW1 was examined and Ex.P1 to Ex.P7 were marked and on the side of the respondent RW1 was examined and Ex.R1 to Ex.R4 were marked.

#### 5. The point for consideration is:

Whether the denial of promotion to the worker Thiru. S. R. Rajendran by the respondent management is justified or not and if not justified, what is the relief entitled to the said workman?

6. The pleadings of the parties, the evidence let in by either sides and the exhibits marked on both sides are carefully considered. On both sides, written arguments were filed and the same is carefully considered. In support of his case, the learned Counsel for the respondent relied upon the Judgment reported in 1967 - 68 Vol.33 FJR 151 (SC) and AIR 1973 SC 2452.

7. From the pleadings of both the parties, it can be inferred that the following facts are admitted by either sides that the workman S.R. Rajendran on whose behalf the industrial dispute was raised by the petitioner union was working at the respondent establishment and he was promoted as Bale Breaker attender and the said workman S.R. Rajendran was the active member of the INTUC union and thereafter, he left from the union and joined in CITU union, while so the respondent Mill has not promoted him to the post of Skutcher Tenter and hence, the union has raised the industrial dispute for denial of promotion to said workman S.R. Rajendran by the respondent mill before the Conciliation Officer.

8. It is the evidence of PW1, the member of the petitioner union workman S.R. Rajendran that he had been in service from 1983 at the respondent mill and subsequently he was promoted as Bale Breaker and thereafter, his promotion for Skutcher Tenter was refused by the respondent and though the Badli workmen Ramesh, Suresh and relievers Ilango, Thirumalairajan, Kamaraj, Manohar and Latchumanan who were juniors to him were given the work of Skutcher Tenter, and out of the 7 post of Skutcher Tenter 5 post was vacant he was not given the work of Skutcher Tenter with intention by which he has lost ₹ 300 per month and hence, the union raised the industrial dispute for his promotion on 25-09-2003 before the Conciliation Officer.

9. In support of his case the PW1 has exhibited Ex.P1 to Ex.P7. Ex.P1 is the copy of the confirmation order given by the respondent Mill to the petitioner. Ex.P2 is the copy of the promotion order given by the respondent Mill to the petitioner. Ex.P3 is the copy of the production bonus. Ex.P4 is the copy of the letter given to INTUC. Ex.P5 is the copy of the industrial dispute raised by petitioner union. Ex.P6 is the copy of the letter given by the respondent mill to Labour

Officer (Conciliation). Ex.P7 is the copy of the failure report. These documents would go to show that the service of workman S.R.Rajendiran was confirmed by the respondent on 30-06-1990 and he was promoted as Bale Breaker Attender on 31-05-1998 and he was also given incentive in the year 2001 and the workman S.R. Rajendiran along with other workers sent a letter to the INTUC on 19-03-2003 stating that they are come out from the said union which was sent to various Government Labour Departments and to the Vice-President of the respondent mill and requesting the management not to deduct subscription amount for INTUC union from their salary.

10. Further, Ex.P5 would reveal the fact that petitioner union has raised the industrial dispute before the Conciliation Officer stating that the workman S.R.Rajendiran has not been given promotion while juniors have been given work of Skutcher Tenter and promoted to the said post and requesting the Conciliation Officer to conciliate the same. Ex.P6 is the reply given by the respondent to the Conciliation Officer wherein, it is stated that since the workman S.R. Rajendiran was working carelessly and negligently and has been committed several misconducts and misbehavior for which he has been punished and though he is senior, his conduct is not good and his character is not fair to give such promotion and that therefore, he has not been considered for promotion and it is also averred by the respondent management that earlier dispute regarding the same issue raised by the union on 18-8-2003 was withdrawn as not pressed and now, the union has raised the present dispute and on failure of the Conciliation, the Labour Officer has sent a letter under Ex.P7 which would reveal the fact that in the conciliation the respondent management has stated that the promotion given to the juniors of S.R.Rajendiran is not violative of law because the promotion is based on seniority-cum-merit and that the workman S.R. Rajendiran had committed various misconducts for which the management imposed various punishments and his performance was also not upto the mark.

11. On the other hand, the respondent management has examined its Personnel Manager as RW1 and he has denying the contention of the petitioner union stating that the dispute raised by the petitioner union is not sustainable since, no General Body meeting was held to raise such a industrial dispute and it is admitted by him that the petitioner was working as Bale Breaker Attender from 01-06-1998 and he has committed several misconducts for which several punishments were given by the management and he was also suspended from service and since, he has not been

rectified the defect of misconduct he has not been granted promotion and mere seniority is not sufficient for promotion to the employee since, he has committed several misconducts and several punishments were given and that already industrial dispute was raised before the conciliation and subsequently, the same was with drawn by them and once again raised the industrial dispute regarding the same issue is not sustainable and it is untenable and the juniors of S.R. Rajendiran were promoted since, they are working sincerely and furthermore, the said S.R. Rajendiran is terminated from service *vide* order, dated 23-10-2004 for his misbehavior and misconduct.

12. In support of his case, the respondent management has exhibited Ex.R1 to Ex.R4. Ex.R1 is the copy of the punishment orders given to petitioner by the respondent mill (Pg. No.1 to 170) which would reveal the fact that the respondent management has imposed fine to workman S.R. Rajendiran for several times. Ex.R2 is the copy of the letter given by the petitioner union to Labour Officer (Conciliation), Karaikal which would reveal the fact that petitioner union has raised industrial dispute earlier on 15-05-2003. Ex.R3 is the copy of the reply letter given by the respondent mill to Labour Officer (Conciliation). Ex.R4 is the notice of Remarks and industrial dispute raised by the petitioner union before the Conciliation Officer on 25-09-2003. It is alleged in the Ex.R1 that workman S.R. Rajendiran has committed misbehavior of unauthorised absence for number of days for which fine was imposed by the management and he was suspended in the year 1992 and 1993 and several disciplinary proceedings was taken against him and also suspended in the year 1996 and also in the year 2003 and the workman S.R. Rajendiran was very irregular in attending the work and several notices were given for his unauthorised absence for more than 100 times.

13. On this aspect, the records and evidence are perused. The workman S.R. Rajendiran has stated in his cross examination which runs as follows :

“.... என் மீது நிறைய குற்றச்சாட்டுகள் சுமத்தப்பட்ட அவை அனைத்தும் பொய் குற்றச்சாட்டுகள். என் மீது சுமத்தப்பட்ட குற்றச்சாட்டுகளுக்கு பல தண்டனைகள் தரப்பட்டன. ஆனால் அவைகள் யாவும் ஒருதலைபட்சமாக விசாரணை நடத்தாது மிரட்டி கையெழுத்து வாங்கி கொடுக்கப்பட்டவைகள். எனக்கு வழங்கப்பட்ட 170 தண்டனைகளுக்கு எதிராக எந்த வழக்கும் தாக்கல் செய்யவில்லை. நிர்வாகம் மிரட்டி எழுதி வாங்கி இருந்தால் நான் வழக்குப் போட்டு இருப்பேன். ஆனால் மிரட்டாததால்தான் நான் எனக்கு வழங்கப்பட்ட தண்டனைகளை எதிர்த்து எந்த வழக்கும் தாக்கல் செய்யவில்லை என்றால் நான் சமரசப்பேச்சுவார்த்தைக்கு

போகவில்லை. எனக்கு வழங்கப்பட்ட தண்டனைகளின் உத்தரவுகள்தான் எம்சாஆ.1 (170 பக்கங்கள் கொண்டது) அதில் தண்டனைகள் பெற்ற எனக்கு மெரிட் இல்லை என்று சொன்னால் அது சரியல்ல. நான் 2003 பிப்ரவரி மாதம் மனுதாரர் சங்கத்தின் உறுப்பினராக சேர்ந்தேன். நான் உறுப்பினர் என்பதை காண்பிக்க ஆவணம் தாக்கல் செய்யவில்லை.....”.

From the above evidence, it is clear that workman S.R. Rajendiran has committed several misbehavior and fine was imposed on him by the management for more than 100 times which was admitted by the said workman in his evidence that he has been fined for the misbehavior and misconduct. Further, on perusal of Ex.R1 which would reveal the fact that workman S.R. Rajendiran was unauthorisedly absence for his work for more than 100 times and he was suspended for several times in the year 1992, 1993 and also in the year 1996 and 2003 and the same was admitted by the workman S.R. Rajendiran that the fine was imposed against him for his misconduct. But, the said S.R. Rajendiran has denied that the said orders have been accepted by him only on the threat of the respondent management and it is also admitted by him that he has not filed any case against the said punishments. These documents and evidence would go to show that workman S.R. Rajendiran is very irregular in work and he was absent for very long time in attending the work. In such circumstances, the management cannot be compelled to give promotion to the said S.R. Rajendiran as claimed by the petitioner union. Though the workman S.R. Rajendiran is senior the promotion is not a right, based only on the seniority and it is also under the merit. The documents exhibited by the respondent management would clearly go to show that member of the union, the workman S.R. Rajendiran was very irregular and he was absent for his duty for more than 100 times which is not an accepted one.

14. Admittedly, the petitioner union has not exhibited any trade union certificate and General Body meeting conducted by the union and authorising the petitioner union to raise the industrial dispute for the promotion of an individual. As rightly pointed out by the respondent though the workman S.R. Rajendiran is having seniority, he was not qualified for any promotion since, he has committed several misconducts and several punishments were imposed on him and that therefore, the respondent management has clearly established their case that the workman S.R. Rajendiran has committed several misbehavior and misconduct by committing unauthorised absence for several times and the same was admitted by S.R. Rajendiran in his evidence and that therefore, he

is not fit for any promotion as claimed by the petitioner union and that therefore, it can be held that denial of promotion to the worker S.R. Rajendiran by the respondent management is justified and hence, it is to be held that the industrial dispute raised by the petitioner union over denial of promotion to the worker S.R. Rajendiran by the respondent management is not justified and as such, the petition is liable to be dismissed.

15. In the result, the petition is dismissed. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 3rd day of September, 2017.

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

*List of petitioner's witness:*

PW.1 —02-03-2012— S.R. Rajendiran

*List of petitioner's exhibits:*

Ex. P1 —30-06-1990— Copy of the confirmation order given by the respondent mill to the petitioner.

Ex. P2 —31-05-1998— Copy of the promotion order given by the respondent mill to the petitioner.

Ex. P3 —December, — Copy of the incentive  
2001 bonus.

Ex. P4 —19-03-2003— Copy of the letter given to INTUC.

Ex. P5 —25-09-2003— Copy of the industrial dispute raise by petitioner union.

Ex. P6 —12-12-2003— Copy of the letter given by the respondent mill to Labour Officer (Conciliation).

Ex. P7 —28-04-2004— Copy of the failure report.

*List of respondent's witness:*

RW.1 —17-10-2012— John Amalraj

*List of respondent's exhibits:*

Ex. R1 — From, — Copy of the punishment  
22-7-1191 orders given to petitioner  
To by the respondent mill  
15-9-2003 (Pg. No. 1 to 170).

Ex. R2 — 15-05-2003 — Copy of the letter given  
by the petitioner union to  
Labour Officer  
(Conciliation) Karaikal.

Ex. R3 — — — Copy of the letter given  
by the respondent mill to  
Labour Officer  
(Conciliation).

Ex. R4 — 01-10-2003 — Notice of Remarks.  
25-09-2003 Industrial dispute raised by  
the petitioner union before  
the Conciliation Officer.

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

**GOVERNMENT OF PUDUCHERRY**  
**DIRECTORATE OF SCHOOL EDUCATION**  
(SECRETARIAT WING)

(G.O. Ms. No. 69, Puducherry, dated 26th February 2018)

**ORDER**

Sanction of the Lieutenant-Governor, Puducherry, is conveyed for fixing the concessional rent as given below for using the AFT Ground, Puducherry and Helipad Ground, Lawspect, Puducherry:-

Sl. No.	Name of the Ground	Rent per day		
		Commercial	Non-commercial	Circus units
(1)	(2)	(3)	(4)	(5)
		₹	₹	₹
1	AFT Ground	75,000	40,000	10,000
2	Helipad Ground	38,000	20,000	5,000

2. The above rate will be reviewed once in three years. Allotment will be subject to on condition that there should be no leasing out of the Grounds in part and it should be for the whole area of the Ground.

3. Allotment of the above Grounds to the Government Departments/Public Sector Undertaking will be on free of cost basis, whenever required by them.

4. This issues with the concurrence of the Finance Department *vide* their I.D. No. 2542/F4/A4/FC/2017, dated 1-12-2017.

(By order of the Lieutenant-Governor)

**V. JAISANKAR,**  
Under Secretary to Government  
(School Education).

**GOVERNMENT OF PUDUCHERRY**  
**LABOUR DEPARTMENT**

(G.O. Rt. No. 25/AIL/Lab./T/2018,  
Puducherry, dated 27th February 2018)

**NOTIFICATION**

Whereas, the Government is of the opinion that an industrial dispute has arisen between M/s. Brightnex, Industrial Estate, Thattanchavady, Puducherry and Thiru Deiveegan, over non-employment of service in respect of the matter mentioned in the Annexure to this order;

And whereas, in the opinion of the Government, it is necessary to refer the said dispute for adjudication;

Now, therefore, by virtue of the authority delegated *vide* G. O. Ms. No. 20/91/Lab./L, dated 23-5-1991 of the Labour Department, Puducherry to exercise the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), it is hereby directed by Secretary to Government (Labour) that the said dispute be referred to the Labour Court, Puducherry for adjudication. The Labour Court, Puducherry shall submit the Award within 3 months from the date of issue of reference as stipulated under sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947 and in accordance with rule 10-B of the Industrial Disputes (Central) Rules, 1957. The party raising the dispute shall file a statement of claim complete with relevant documents, list of reliance and witnesses to the Labour Court, Puducherry within 15 days of the receipt of the order of reference and also forward a copy of such statement to each one of the opposite parties involved in the dispute.