



# புதுச்சேரி மாநில அரசிதழ்

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அதிகாரம் பெற்ற வெளியீடு

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### பொருளடக்கம்

### SOMMAIRES

### CONTENTS

| பக்கம்                              | Page                                 | Page                             |
|-------------------------------------|--------------------------------------|----------------------------------|
| தொழில் நீதிமன்றத் தீர்ப்புகள்.. 366 | Sentence arbitral du Travail .. 366  | Award of the Labour Court .. 366 |
| அரசு அறிவிப்புகள் .. 372            | Notifications du Gouvernement .. 372 | Government Notifications .. 372  |
| ஒப்ப அறிவிப்புகள் .. 382            | Avis d'Adjudications .. 382          | Tender Notices .. 382            |
| ஆபத்தான நிறுவனங்கள் .. 385          | Etablissements Dangereux .. 385      | Dangerous Establishments .. 385  |
| சாற்றறிக்கைகள் .. 389               | Annonces .. 389                      | Announcements .. 389             |

**GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT**

(G. O. Rt. No. 09/Lab./AIL/T/2018,  
Puducherry, dated 5th February 2018)

**NOTIFICATION**

Whereas, an Award in I.D. (L) No. 13/2015, dated 22-12-2017 of the Labour Court, Puducherry in respect of the industrial dispute between Thiru L. Karunanithi @ Karunakaran against the management of M/s Hidesign India Private Limited, Puducherry, over amendment of retirement age from 55 to 58 years 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,

*Friday, the 22nd day of December, 2017*

**I.D. (L) No. 13/2015**

L. Karunanithi @ Karunakaran,  
D-Block, No.20,  
Jawahar Nagar, Boomiyampet,  
Puducherry. . . Petitioner

*Versus*

The Managing Director,  
M/s. Hidesign India Private Limited,  
Odhiyampet Village,  
Puducherry-605 110. . . Respondent.

This Industrial Dispute coming on 23-11-2017 before me for final hearing in the presence of Thiruvalargal P.R. Thiruneelakandan and A. Mithun Chakkaravarthy and R. Harinath, Counsel for the petitioner, Thiru G. Krishnan, 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. 31/AIL/Lab./J/2015, dated 13-04-2015 for adjudicating the following:-

(i) Whether the dispute raised by Thiru L. Karunanithi @ Karunakaran against the management of M/s. Hidesign India Private Limited, Puducherry over amendment of retirement age from 55 to 58 years is justified? If justified, what relief he is entitled to ?

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

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

It is stated that the petitioner is a workman employed in respondent factory at Puducherry, he had completed 30 years of continuous service in the respondent factory. While so, the respondent *vide* letter, dated 04-08-2014 terminated the petitioner's service with effect from 30-08-2014 as he had reached superannuation at his age of 55 on 14-08-2014. Aggrieved by the same he had raised an industrial dispute before the Labour Officer, Conciliation on 14-08-2014 itself. While pending the said dispute the respondent without approval of the Labour Officer, Conciliation denied employment from 30-08-2014. The said dispute raised by the petitioner ended in failure and the Conciliation Officer submitted his failure report on 21-01-2015 to the Government of Puducherry and the Government has referred the said dispute before this Court for adjudication and further stated that at the time of the petitioner's initial appointment he was not issued any written appointment order and further at the time of his initial engagement there was no certified standing order in the respondent establishment and the model standing order framed under the Industrial Employment Standing Order (Central) Rules applicable to the respondent establishment and accordingly, as stated in schedule 1-B of the Industrial Employment Standing Order (Central) Rules, the age of retirement of workmen is 58 years unless contrary agreed between the workmen and the employer under agreement or settlement or Award. As far as superannuation of employee is concerned, there was no agreement or settlement or Award between the respondent and his workers or their Trade union representative or petitioner. In the absence of such arrangement stipulating the age of retirement the age of retirement was followed as 58 years as stated in the Industrial Employment Model Standing Order. The certified standing order shall be in conformity with the Industrial Employment Standing Order Act and the Rules

made thereunder and considering section (2)g and section 3(2) of the Industrial Employment Standing Order Act, the certified standing order should be relating to the matter set out in the schedule of the Industrial Employment Standing Orders Act. The schedule contains only 11 items which does not includes matter relating to superannuation or retirement age of the workers. Therefore, the additional item provided in the model standing orders namely, clause 3- Age of retirement applicable to all industrial Establishment. Accordingly, the age of superannuation of workers is 58, unless contrary is agreed between the employer and the workmen by way of an agreement or settlement or otherwise the age of the retirement is settled by way of industrial award. Therefore, the respondent is barred from submitting any draft standing order not in conformity with the Industrial Employment Standing Order Act, Rules and further, the Certifying Officer also have no authority or jurisdiction to certify any standing order not in conformity with the model standing order or contrary to the model standing order and that if, any standing order certified not in conformity with the model standing order or in contrary with the Industrial Employment Standing Order Act, the Rules, the model standing order, the Act and the Rules prevail over the certified standing order and the employer and employees are bound by the model standing order and the certified standing order not in conformity with the the model standing order would not be existence in the eye of law and therefore, the respondent relying the alleged certified Standing order and denied employment to the petitioner is arbitrary, illegal and against the provision of Industrial Employment Standing Order Act, the Rules, model standing order and further stated that the due age of the superannuation of the petitioner is 58 years which fall on 30-08-2017 and the termination of petitioner's service at 55 years of age is illegal and therefore, the petitioner is entitled to reinstatement of service with full backwages, continuity in service and all other attendant benefits. The petitioner's last drawn was ₹ 10,500 per month. After he was illegally denied employment he has not been gainfully employed anywhere in any establishment. Therefore, prayed this Court to pass an Award holding that the denial of employment to the petitioner from 30-08-2014 is illegal as the age of retirement is 58 years and direct the respondent to reinstate the petitioner in his service with effect from 30-08-2014 with continuity of service with full backwages and all other attendant benefits.

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

The claim statement filed by the petitioner is false and vexatious and do not deserve any consideration either legally or factually. The workmen employed by the respondent are governed by the certified standing orders

which was certified by the Commissioner of Labour and Certifying Officer for the Union territory of Puducherry as early as on 31th October, 1993 after giving due notice to the Hidesign Labour Union, Puducherry which is trade union registered under the Trade Unions Act with Registration No. RTU/657/89. The management and the said union participated in the enquiry and after following the procedure as contemplated under section 5(2) of the Act, the draft standing order submitted by the management was certified after making necessary modifications therein. The union in which the petitioner was also a member had participated in the proceedings for the initial certification however, did not prefer any appeal as against the certification of the existing standing orders which was certified on 31-10-1993 though, an appeal was contempt under the Act. The standing orders of the respondent duly certified under the Industrial Employment (Standing Orders) Act dealt *inter alia* with the provisions relating to retirement of workers. The retirement age of 55 was fixed taking into account of the nature of job performed by the workers which required good eyesight, nimbleness of the fingers, good memory and speed and as one gets older, the above attributes begin to diminish and this affects the efficiency of the workers and the workmen above the age of 55 would not be capable of performing their duties in the expected manner owing to problems in eye vision and other physical in capabilities and the union which actively participated in the enquiry taking into consideration of these factors had also agreed for fixing the age of 55 as retirement age. It is settled law that every amendment to the Model Standing Orders does not, perse, become applicable to an industrial establishment, which has Certified Standing Orders. The retirement age of 55 as per the provisions of the existing certified standing order would continue unless certification of amendment as contemplated under the Industrial Employment (Standing Orders) Act is made and until then the workmen of the respondent units including the petitioner herein would continue to be governed by their certified standing orders. The existing certified standing orders of the respondent in respect of retirement, till modified in the manner provided by law, is binding on the petitioner and therefore, the retirement of the petitioner in terms of the existing certified standing orders of the respondent units is valid in law. The existing standing orders came into operation from 1993 and since then many workmen were superannuated on completion of 55 years of age without any discrimination and the petitioner employed subsequent to the certification was thus governed by the age of superannuation as fixed under the certified standing orders and therefore, he was rightly retired with effect from 30-08-2014 and the petitioner is not entitled for

any relief as sought by him in the claim statement. Further, he can not also take advantage of the modification in the retirement age done at the instance of the union since the order of the Certifying Officer was challenged by the management in S.O.A. No. 2 of 2015 before the Hon'ble Appellate Authority under the Industrial Employment (Standing Orders) Act and the same is pending. The question of denial of employment would not arise since the petitioner was relieved from the services on superannuation in terms of the existing certified standing orders of the respondent company.

4. In the course of enquiry on the side of the petitioner PW.1 and PW.2 was examined and Ex.P1 to Ex.P13 were marked and on the side of the respondent RW.1 was examined and Ex.R1 to Ex.R3 were marked.

*5. The point for consideration is:*

Whether the dispute raised by the petitioner against the respondent management over amendment of retirement age from 55 to 58 years is justified or not and whether the petitioner is entitled for order of reinstatement at the respondent establishment or not?

6. Both sides are heard. The submission of both the parties, the evidence let in by either sides and the exhibits marked on both sides are carefully considered. On the side of the respondent written argument was filed and the same is carefully considered. In support of his argument, the learned Counsel for the respondent has relied upon the Judgment reported in CDJ 2009 Ker HC 905.

7. It is the case of the petitioner that he had completed 30 years of continuous service at the respondent factory and on 04-08-2014 he received a letter that he had been terminated from service with effect from 30-08-2014 as he had reached superannuation at his age of 55 on 14-08-2014 against which he has raised an industrial dispute before the Labour Officer, Conciliation on 14-08-2014 and while pending dispute the respondent management has denied employment without approval of the Labour Officer, Conciliation and the dispute raised by the petitioner before the Labour Officer, Conciliation was failed and the failure report was submitted to the Government of Puducherry and the Government has referred the said dispute to this Court and that he is entitled for service up to 58 years as per Industrial Employment Standing Order (Central) Rules applicable to the respondent establishment and further, while at the time of appointment, no appointment order was given to him and that there was no agreement entered between the respondent management and workmen regarding the age of retirement and in the absence of such arrangement stipulating the age of retirement the age of retirement was

followed as 58 years as per Industrial Employment Model Standing Order and therefore, the petitioner has to be given service up to 30-08-2017 for 58 years and hence, the termination of petitioner's service at 55 years of age is illegal and the respondent management cannot deny the right of the petitioner and hence, he has to be reinstated with backwages and he has to be permitted to serve till 30-08-2017.

8. In order to prove the case of the petitioner, the petitioner has examined himself as PW.1 and he has deposed that he was illegally denied employment with effect from 30-08-2014 and that he has filed the claim statement before this Court and that has been treated as part and parcel of the evidence and prayed to reinstate him in service at the respondent establishment with effect from 30-08-2014 as prayed for in the claim statement. In support of his evidence, the co-employee of the petitioner has been examined as PW.2. It is the evidence of PW.2 that he also had been in service at the respondent establishment and that at the time of initial appointment there is no certified standing order in the respondent establishment and subsequently, the age of retirement was reduced from 58 years to 55 years stating that they have obtained certificate of standing order to that effect from the Certifying Officer under the Industrial Employment Standing Order Act to reduce the age of retirement and that therefore, the workers approached the Certifying Officer to enhance the same and the Certifying Officer has also modified the standing order on 29-10-2015 that the retirement is only at 58 years of age and that the act of the respondent management reduced the age of retirement from 58 years to 55 years is contrary to the Model Standing Order and the same is illegal.

9. In support of his case Ex.P1 to Ex.P13 were marked on the side of the petitioner. Ex.P1 is the copy of the PF Receipt of the petitioner. Ex.P2 is the copy of the ESI ID Card of the Petitioner. Ex.P3 is the copy of the Pay Slip of the Petitioner for the month of January, 2014. Ex.P4 is the copy of the Retirement Order issued by respondent to petitioner. Ex.P5 is the copy of the respondent notice to petitioner. Ex.P6 is the copy of the petitioner's letter to respondent, Commissioner of Labour, Labour Officer, Conciliation and its Postal AD Card. Ex.P7 is the copy of the petitioner letter to certifying officer under Industrial Employment standing Order Act. Ex. P8 is the copy of the petitioner letter to respondent and its postal receipt, postal AD Card. Ex.P9 is the copy of the petitioner's letter to Labour Officer, Conciliation. Ex.P10 is the copy of the Conciliation Failure Report. Ex.P 11 is the copy of the Government reference. Ex.P12 is the copy of the Court Notice in ID.L.13 of 2015. Ex.P13 is the copy

of the Order passed by the Commissioner of Labour-cum-Certifying Officer regarding age of retirement. These documents would reveal the fact that the petitioner had been in service at the respondent establishment up to August, 2014 and the information regarding the order of retirement was served to him on 04-08-2014 and the petitioner has raised the industrial dispute before the Labour Conciliation Officer on 13-08-2014 and he has submitted an application to the Certifying Officer under Industrial Employment Standing Order Act on 14-08-2014 and he has sent a letter to the Labour Officer, Conciliation on 07-11-2014 wherein, the conciliation was failed and failure report was submitted to the Government and the same was referred to this Court and the Commissioner of Labour-cum-Certifying Officer has passed an order enhancing the age of retirement from 55 years to 58 years on 29-10-2015 in the standing order of the respondent establishment.

10. On the other hand, to prove their case the respondent management has examined RW.1 and he has deposed that he is the authorized representative of the respondent management and that on 31-10-1993, the standing order of the respondent establishment was certified by the Commissioner of Labour, wherein, it is stated that he passed the said order after giving reasonable opportunity to the union as well as the management and he certified the same after making necessary modifications therein in accordance with section 5(3) of the Industrial Employment (Standing Order) Act and the retirement age was fixed as 55 years and that the nature of job performed by the workers in the respondent company requires good eyesight, nimbleness of the fingers, good memory and speed and as one gets older, the above attributes begin to diminish and this affects the efficiency of the workers and the workmen above the age of 55 would not be capable of performing their duties in the effective manner owing to problems in eye vision and other physical in capabilities and the union which actively participated in the enquiry taking into consideration all these factors had also agreed for fixing the age of 55 as retirement age and that from 1993 many workmen were superannuated on completion of 55 years of age without any discrimination and the petitioner also employed subsequent to the certification and that therefore, the petitioner was rightly retired with effect from 30.08.2014 and the petitioner is not entitled for any reinstatement as claimed by him and that he cannot take advantage of the modification in the retirement age done at the instance of the union since the order of Certifying Officer was challenged by the management in S.O.A. No. 02 of 2015 before this Tribunal.

11. In support of their case the respondent management has exhibited Ex.R1 to Ex.R3. Ex.R1 is the certified true copy of the Extract of the resolution passed at the meeting of the Board of Directors of respondent Company. Ex.R2 is the copy of the certified standing orders of the respondent company. Ex. R3 is the copy of memorandum of appeal in S.O.A.2/2015. From the oral evidence of RW.1 and the exhibits marked on the side of the respondent it is established by the respondent management that the respondent company has certified standing order from 31-10-1993 and that the respondent management has filed a Appeal against the order of the Commissioner of Labour who has modified the standing order.

12. From the evidence of both the parties it can be seen that the following facts are admitted by either sides. Originally the respondent management has certified standing order from 31-10-1993 wherein, the retirement age was only 55 years to the workers of the respondent establishment and as per standing order the date of retirement of the petitioner was 30-08-2014 and subsequent to the intimation given to him the petitioner has raised the industrial dispute before the Conciliation Officer and the union also has filed the petition before the Labour Commissioner to modify the standing order of the respondent establishment and after hearing both sides the learned Commissioner has passed an order enhancing the retirement age as 58 years against which the respondent management has filed an Appeal before this Court challenging the said order enhancing the age of retirement from 55 years to 58 years. Now, it is to be decided whether the petitioner is entitled for reinstatement as claimed by him in the claim statement and whether he is entitled to work till 58 years as claimed by him. On this aspect, the evidence and records are carefully considered.

13. *The evidence of PW.1 in his cross examination is carefully considered which runs as follows :*

“..... நான் 55 வயது முடிந்தவுடன் நான் பணியிலிருந்து ஓய்வு பெற்றேன் ஆனால் தொழிற்சாலையில் ஓய்வு வயது 58 ஆகும். எங்கள் கம்பெனியின் ஓய்வு பெறும் வயது 58 என்பதற்கான ஆவணத்தை நான் நீதிமன்றத்தில் தாக்கல் செய்திருக்கிறேன் என்றால் இல்லை. நான் தொழிலாளர் நல அலுவலகத்தில்தான் கொடுத்திருக்கிறேன். எனக்கு முன்பாக பல தொழிலாளர்கள் 55 வயதில் தான் ஓய்வு பெற்றுச் சென்றார்கள் என்றால் அது பற்றி எனக்கு தெரியாது. நான் பணி செய்த செக்ஷன் கார்மெண்ட் செக்ஷனில் பணி புரிந்தேன். என்னுடன் பணி செய்தவர்களில் எனக்கு முன்பாக ஒருவரும் எனக்கு பின்னர் ஒருவரும் ஓய்வு பெற்றனர். அவர்கள் எந்த வயதில் ஓய்வு பெற்றார்கள் என்று எனக்கு தெரியாது..... நான் மனுவின் மூலமாக கோரும் பரிகாரம் எது என்றால் எனக்கு 58 வயது வரை வேலை வேண்டும்

என்பதாகும். அது அரசாங்கத்தில் வேலை செய்பவர்களுக்கு 60 வயது என்றும் தனியாரில் வேலை செய்பவர்களுக்கு 58 என்றும் இருப்பதால் நான் 58 வயது வரை பணி கேட்கிறேன். வேறு எந்த அடிப்படையிலும் நான் பரிகாரத்தை கேட்கவில்லை. எதிர்மனுதாரரால் பணி எதுவும் மறுக்கப்படவில்லை என்றும் ஓய்வு பெறும் வயதானதால் தான் பணி ஓய்வு பெற்றேன் என்றும் சொல்லியிருக்கிறேன் என்றால் சரியல்ல எனக்கு கொடுக்கப்பட்ட மதாசஆ 4ல் பணி முதிர்வு பெறும் கடிதம் கொடுக்கப்பட்டிருக்கிறது என்றால் சரிதான். என்னிடம் காட்டப்படும் ஆவணம் மதாசஆ 6ல் நான் எதிர் மனுதாரருக்கு கொடுத்த கடிதத்தில் ஓய்வு வயதை 55 லிருந்து 58 ஆக உயர்த்த கோரியிருக்கிறேன் என்றால் சரிதான். நிலையாணையில் 55 வயது உள்ளதை 58 வயதாக உயர்த்தும்படி தான் கூறியிருக்கிறேன். என்னிடம் காட்டப்படும் மதாசஆ 7-ல் நான் கொடுத்ததுதான். நிர்வாகத்தில் உள்ள நிலையாணையில் 55 வயது ஓய்வு வயது என்றும் அதை நான் ஒப்புக் கொண்டிருக்கிறேன் என்றும் சொன்னால் சரியல்ல..... ”

From the above evidence, it is clear that the age of retirement was 55 years and the petitioner also has been retired from service at the age of 55 years and he has also submitted a requisition to the management to raise the retirement age from 55 to 58 and he has also given a letter to the Commissioner of Labour-cum-Certifying Officer to instruct the respondent management to modify the retirement age in the standing order. Further, the evidence of PW.2 in his cross examination is also carefully considered which runs as follows :

“..... எதிர்மனுதாரர் நிறுவனத்தில் சான்றளிக்கப்பட்ட நிலையாணை நடைமுறையில் உள்ளது. அந்த நிலையாணை சான்றளிப்பு அதிகாரி முன்னால் நடைபெற்ற சான்றளிப்பு நடவடிக்கையில் தொழிற்சங்கம் பங்கெடுத்தது. அந்த நிலையாணையின் படி ஓய்வு வயது 55 என்றால் சரிதான். மனுதாரருக்கு ஓய்வு 55 வயது பூர்த்தியானபோது அளிக்கப்பட்டது. எனக்கும் 55 வயது தான் ஓய்வு வயது ..... 29-10-2015-ல் லேபர் கமிசனர் உத்தரவு பிறப்பித்தார். அதில் ஓய்வு வயது வயதை 55 லிருந்து 58 ஆக உயர்த்த வேண்டும் என்று குறிப்பிடப்பட்டுள்ளது. அதை ஒரு ஆவணமாக தாக்கல் செய்திருக்கிறேன். தொழிலாளர் ஆணையர் பிறப்பித்த உத்தரவிற்கு எதிராக நிர்வாகம் தாக்கல் செய்த மேல் முறையீடு நிலுவையில் உள்ளது என்பது எனக்கு தெரியும். மேல் முறையீடு நிலுவையில் உள்ள காரணத்தினால் மனுதாரர் எந்த பரிகாரமும் ஏதும் ஓய்வு வயது சம்பந்தமாக கோர முடியாது என்றால் சரியல்ல. சான்றளிப்பு அதிகாரி முன்பாக ஓய்வு வயது உயர்வு சம்பந்தமாக நடைபெற்ற பேச்சு வார்த்தைகளில் நானோ அல்லது மனுதாரரோ கலந்துக்கொள்ளவில்லை. எங்களது தொழிற்சங்கம் தான் அதில் கலந்துக் கொண்டது. சான்றளிக்கப்பட்ட நிலையாணையின் படி ஏறக்குறைய 50 தொழிலாளர்கள் 55 வயது பூர்த்தியடைந்து பணிஓய்வு அடைந்துள்ளார்கள்..... ”.

From the above evidence, it is clear that the Commissioner of Labour-cum-Certifying Officer has enhanced the age of retirement from 55 years to 58 years by modifying the standing order and the management has also filed an Appeal before this Court and more than 50 workers have been retired from service after completion of 55 years of age.

14. Admittedly, the petitioner was not terminated by the respondent management and only he was given retirement on 30-08-2014 and thereafter, the order has been passed by the Commissioner of Labour modifying the standing order to the effect that enhancing the retirement age from 55 years to 58 years on 29-10-2015. While the petitioner was in service as per the standing order, the age of retirement is only 55 years and not 58 years. Furthermore, it is clear from the contention of the petitioner that he sought for order of reinstatement only on the foot of the order of Labour Commissioner modifying the standing order of the respondent establishment to enhance the retirement age. However, the same was challenged by the respondent management before this Court and the same is also posted for orders today wherein, this Court has also decided the Appeal today which was filed challenging the modification of the standing order in which the age of retirement was enhanced from 55 years to 58 years and the Appeal was allowed by this Tribunal and the said order of Commissioner of labour was set aside by this Court since, the said modification order was passed by the Labour Commissioner in violation of the 12(3) settlement arrived at between the workers union and the respondent management on 31-01-2012 under memorandum of settlement.

15. Furthermore, the learned Counsel for the respondent has relied upon the Judgment reported in CDJ 2009 Ker HC 905, wherein, the Hon'ble High Court has observed that,

"The unions agree that during the period of operation of this settlement, they shall not raise any demand having financial burden on the Corporation other than bonus provided that this clause shall not affect the rights and obligations of the parties in regard to matters covered under section 9-A of the Industrial Disputes Act, 1947.

In that case also the Certifying Officer allowed the modification. The appellate authority affirmed the revision with a slight modification. Affirming the judgment of the High Court relying on clauses 19 and 21 of the memorandum of settlement, the Supreme Court held thus in paragraphs 9 and 10:

"9. The settlement does not make any specific mention about the age of retirement. Clause 19 of the settlement, however, provides that such terms and conditions of service as are not changed under this settlement shall remain unchanged and operative for the period of the settlement. The age of retirement prescribed by clause 20 of the certified standing orders was undoubtedly a condition of service which was kept intact by clause 19 of the settlement. 10. ....The argument that the upward revision of the age of superannuation will not entail any financial burden cannot be accepted. The High Court rightly points out : "Workmen who remain in service for a longer period have to be paid a large amount by way of salary, bonus and gratuity than workmen who may newly join in place of retiring men". The High Court was, therefore, right in concluding that the upward revision of the age of superannuation would through an additional financial burden on the management in violation of clause 21 of the settlement. Therefore, during the operation of the settlement it was not open to the workmen to demand a change in clause 20 of the certified standing orders because any upward revision of the age of superannuation would come in conflict with clauses 19 and 21 of the settlement. We are, therefore, of the opinion that the conclusion reached by the High Court is unassailable."

The clauses quoted above from Exts.P7, P8 and P9 settlements between the parties in this case are in *pari materia* with clauses 19 and considered by the Supreme Court. It is not disputed before me that the petitioner company is in dire financial straits. It is also not disputed before me that the last of the settlement was in force at the time of passing the impugned orders. Therefore, the ration of the decision of the Supreme Court in Barauni Refinatory's case (Supra) squarely applies to the facts of this case on all fours. Therefore, I have no option but, to decide this case in accordance with the ration of that decision.

Therefore, following the decision of the Supreme Court, I allow this writ petition and set aside the impugned orders to the extent it allows the modification of clause 48 of Ex.P1 standing orders.

However, the wages paid to the employees who continued in service by virtue of the interim orders of this Court for the period subsequent to their attaining 55 years shall not be recovered from them. The extended period of service till today shall be treated as extension granted in exercise of the discretion of the management as provided in clause 48 of Ex.P1 standing orders."

From the above observation of the Hon'ble High Court, it is clear that whenever there is settlement between the employer and employees and no modifications can be made in the standing order against the clause of the settlement arrived at between the employer and employees giving additional financial burden on the management. It is clear that enhancement of retirement age of the worker in the Industry which would create financial burden to the Industry since the entire employee has to be given more wages than the new workers and if, the entire workman is in service for longer period they have to be paid large amount of wages, bonus and gratuity than the workmen who may newly joined in the place of retiring man which would give additional financial burden on the management in violation of the settlement arrived under section 12(3) of the ID Act. Furthermore, more than 50 workers have been retired from service at the age of 55 as per the standing order. As per the above observation of the Hon'ble High Court, the said Appeal in S.O.A. No. 02 of 2015 was allowed by this Court and the order of the Commissioner of Labour enhancing the age of retirement from 55 years to 58 years was set aside by this Court. As this Court allows the said Appeal and set aside the order of the Commissioner of Labour, this claim petition filed by the petitioner automatically become infructuous that is the petitioner would not seek any remedy on the foot of the said modification of the standing order since, the age of retirement is 55 years as per the standing order of the respondent establishment and that therefore, it is to be held that the industrial dispute raised by the petitioner against the respondent management over amendment of retirement age from 55 to 58 years is unjustified and as such, the petitioner is not entitled for any relief as claimed by him in the claim statement and the petition is liable to be dismissed.

16. In the result, the petition is dismissed by holding that the industrial dispute raised by the petitioner against the respondent management over amendment of retirement age from 55 to 58 years is unjustified and the petitioner is not entitled for any order of reinstatement at the respondent establishment as claimed by him in the claim statement. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 22nd day of December, 2017.

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

*List of petitioner's witnesses:*

PW.1 —12-01-2017 — L. Karunanithi @  
Karunakaran

PW.2 —01-03-2017 — C. Appadurai

*List of petitioner's exhibits:*

Ex.P1 — 2009-2010— Copy of the PF Receipt of  
the petitioner.

Ex.P2 — 2009-2010— Copy of the ESI ID Card of  
the petitioner.

Ex.P3 —January, — Copy of the Pay Slip of the  
2014 Petitioner, 2014

Ex.P4 —04-08-2014— Copy of the Retirement  
Order issued by  
respondent to petitioner.

Ex.P5 —06-08-2014— Copy of the respondent  
notice to petitioner.

Ex.P6 —13-08-2014— Copy of the petitioner's  
letter to respondent,  
Commissioner of Labour,  
Labour Officer,  
Conciliation and its Postal  
AD Card.

Ex.P7 —14-08-2014— Copy of the petitioner  
letter to Certifying  
Officer under Industrial  
Employment Standing  
Order Act.

Ex.P8 —04-09-2014— Copy of the petitioner  
letter to respondent and its  
postal receipt, postal AD  
Card.

Ex.P9 —07-11-2014— Copy of the petitioner's  
letter to Labour Officer,  
Conciliation.

Ex.P10—21-01-2015— Copy of the Conciliation  
Failure Report.

Ex.P11—09-04-2015 — Copy of the Government  
reference.

Ex.P12—10-07-2015 — Copy of the Court Notice  
in ID.L. 13 of 2015.

Ex.P13—29-10-2015 — Copy of the Order passed  
by the Commissioner of  
Labour-cum-Certifying  
Officer regarding age of  
retirement.

*List of petitioner's witness:*

RW.1—22-05-2017 — T. Rajkumar

*List of petitioner's exhibits:*

Ex.R1 —16-12-2015 — Certified true copy of the  
Extract of the resolution  
passed at the meeting  
of the Board of Directors  
of respondent Company.

Ex.R2 —31-10-1993 — Copy of the certified  
standing orders of the  
respondent company.

Ex.R3 —17-11-2015 — Copy of memorandum of  
appeal in S.O.A. 2/2015.

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

**GOVERNMENT OF PUDUCHERRY**  
**LAW DEPARTMENT**

(G. O. Ms. No. 3/LD/2018, Puducherry, dated 26th February 2018)

**NOTIFICATION**

In pursuance of section 6 of the Notaries Act, 1952 (Central Act No. 53 of 1952), the list of Notaries practicing in the Union territory of Puducherry as on 26th February, 2018 are as mentioned in the Appendix together with their residential and professional addresses and qualifications are published for general information of the public.