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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 34/Lab./AIL/T/2018,
Puducherry, dated 9th March 2018)

NOTIFICATION

Whereas, an Award in I.D (L) No. 43/2015, dated 29-01-2018 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Auromed Hospital P. Ltd., (AUM Hospital), Puducherry and Thiru D. Sugumar - Award of the Labour Court, Puducherry has been received;

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

(By order)

S. MOUTTOULINGAM,

Under Secretary to Government (Labour).

BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY

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

Monday, the 29th day of January 2018

I.D. (L) No. 43/2015

D. Sugumar,
No. 15, Courd Nagar,
II Cross, Kanuvapet, Villianur,
Puducherry. . . Petitioner

Versus

The Managing Director,
M/s. Auromed Hospital P. Ltd.,
(AUM Hospital),
No.1, Sapthagiri Garden,
Solai Nagar Main Road,
Muthialpet, Puducherry. . . Respondent

This Industrial Dispute coming on 10-01-2018 before me for final hearing in the presence of Thiruvalargal R.T. Shankar, N. Babu, A. Ashok Kumar, Advocates for the petitioner and Thiru J. Cyril Mathias

Vincent, 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.91/AIL/LAB/J/2015, dated 12-08-2015 for adjudicating the following:-

(i) Whether the dispute raised by Thiru D. Sugumar against the management of M/s. Auromed Hospital P. Ltd., (AUM Hospital), Puducherry over his non-employment 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 :

The petitioner was working at the respondent establishment from 2008 without any blemish. He is dedicated and very sincere on his duties. The CEO of the respondent management had contacted the petitioner directly on 12-04-2014 and orally ordered not to come to work and after inspite of the same the petitioner went to duty on 14-04-2014 whereas, the petitioner was stopped at the entrance by the management security and was not allowed inside the Hospital. Hence, the petitioner questioned the security for which the security person stated that he was informed by the management that do not to allow him inside as he was terminated from service. The petitioner immediately contacted the HR Manager Thiru Krishnan over phone but, he doesn't responded properly. Thereafter, the petitioner tried several occasions to meet his CEO but ended in vain. Therefore, the petitioner had sent letter on 09-06-2014 to the management regarding his April month salary and refusal of employment. But, the respondent management purposely, willfully and wantonly not replied the same for the reasons best known to them. The act of the management by orally dismissing the petitioner is against Industrial Disputes Act and principles of natural justice. From 2008 the petitioner served for the period of 365 days per year with continuous employment without any justice or reasons the respondent management *sue motto* and blindly terminated the petitioner from the service without any legal procedure which

is contemplated under the labour laws, which is absolutely against the labour laws as well as the principles of natural justice and therefore, the said alleged impugned oral order of the respondent management is against and violation of sec.25-F of Industrial Disputes Act, 1947. Therefore, the petitioner has raised an industrial dispute on 18-06-2014 and the same is not amicably settled and hence, the Puducherry Government has referred the dispute for proper adjudication. Therefore, the petitioner prayed this Court to pass an order directing the respondent management to reinstate the petitioner with full back wages, continuity of service and all other attendant benefits.

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

The petition filed is neither maintainable in law nor sustainable on facts. The petitioner stopped report to duty and attending his work on his own accord from 12-04-2014 in order to avoid receiving a memo issued to him. The respondent management had tried in vain to give a memo in person to the petitioner for grave misconduct, misdeeds and other activities which amount to breach of trust. The petitioner refused to receive the memo tendered to him in person on two occasions and knowing that on 12-04-2014 he would not be able to avoid receiving the memo he stopped coming for work from the afternoon of 12-04-2014, it is denied by the respondent that the petitioner is working with the respondent Hospital since 2008 without any blemish and the allegations that the petitioner is dedicated and very sincere on his duties and due to administrative reasons various changes occurred in the administration set up of the management are false, irrelevant and concocted. It is further denied by the respondent management that Mrs. Geethanjali, Chairperson and CEO of the respondent management had contacted the petitioner over phone on 12-04-2014 and orally ordered not to come to work hereafter in spite of the same the petitioner went to duty on 14-04-2014 whereas, the petitioner was stopped at the entrance by the management security and was not allowed inside the Hospital. The allegations that the petitioner questioned the security for not allowing inside for which the security person stated that he was informed by the management that not to allow him inside as he was terminated from service are

false. It is denied by the respondent management that the petitioner immediately contacted the HR Manager Thiru. Krishnan over phone but he doesn't responded properly. The allegations that thereafter the petitioner tried several occasions to meet his CEO but ended in vain and that therefore, he had sent letter on 03-06-2014 to the management regarding his April month salary and refusal of employment are false. It is denied by the respondent management that the management purposely, willfully and wantonly not replied the same for the reasons best known to them and the allegation that the act of the management by orally dismissing the petitioner is against Industrial Disputes Act and principles of natural justice is false. It is denied by the respondent management that the petitioner served for the period of 365 days per year with continuous employment from 2008 and the allegations that without any justice or reasons the respondent management *sue motto* and blindly terminated the petitioner from the service without any legal procedure which is contemplated under the labour laws, which is absolutely against the labour laws as well as the principles of natural justice and therefore, the said alleged impugned oral order of the respondent management is against and violation of sec.25-F of Industrial Disputes Act, 1947 are false. There is no industrial dispute and the ID is not maintainable and the petition for reinstatement with full back wages, continuity of service and all other attendant benefits is not maintainable since the petitioner has not filed the claim petition under any specific provision of law and that therefore, the claim petition filed by the petitioner is to be dismissed.

4. In the course of enquiry on the side of the petitioner PW.1 and PW.2 were examined and Ex.P1 to Ex.P6 was marked and on the side of the respondent no oral evidence has been let in and no exhibit has been marked.

5. Both sides are heard. The pleadings of the parties, the evidence let in and the exhibits marked on side of the petitioner are carefully considered.

6. The point for consideration is:

Whether the dispute raised by the petitioner against the respondent management over his non-employment is justified or not and if justified, what is the relief entitled to the petitioner.

7. In order to prove the case the petitioner was examined as PW.1 and he has stated in his evidence that he was working at the respondent establishment from 2008 and on 12-04-2014 the Chief Executive Officer of the respondent had ordered orally that not to come to work and on 14-04-2014 while he was made an attempt to enter into the Hospital the Security has stopped and has not allowed him to enter into the Hospital and the Security has stated that he was informed by the management that do not allow the petitioner as that he was terminated from service and even after he made several demands to meet the Chief Executive Officer he was not allowed to meet him and hence, he has sent a letter on 09-06-2014 to the management regarding his salary for the month of April and for employment and that the management had not followed any principles of natural justice and hence, he has raised the industrial dispute on 18-06-2014 before the Conciliation Officer against the act of the respondent management that abundantly terminated from service without any legal procedure and without following the provision of the sec.25-F of the Industrial Disputes Act. In support of his evidence PW.1 has exhibited the copy of the letter sent by the petitioner to the respondent management on 02-06-2014 as Ex.P1, the copy of the dispute raised by the petitioner before the Labour Officer (Conciliation) as Ex.P2, the copy of reply submitted by the respondent management before the Labour Officer (Conciliation) as Ex.P3, the copy of conciliation call letter sent by the Labour Officer to the petitioner as Ex.P4 and the reference letter of the Puducherry as Ex.P5.

8. Further, to prove his case the petitioner has examined the staff of the Provident Fund Office as PW.2 and he has stated that the petitioner is the subscriber of the Provident Fund from 17-11-2008 at the respondent Hospital and the respondent Hospital also had been paying subscription to the petitioner and lastly subscription was paid on April, 2014 and PW.2 had exhibited the Form-9 with account statements of the Employee's Provident Fund Organization for the payment of contribution of EPF as Ex.P6.

9. The oral evidence of PW.1 and PW.2 and exhibits marked by them would go to show that the petitioner had been working at the respondent Hospital and the respondent Hospital has paid EPF contribution to the petitioner from 2008 and continuously the respondent management had paid contribution in the name of the

petitioner from 2008-2009 till 2014-2015 and the petitioner had raised the industrial dispute before the Conciliation Officer for which the respondent management has also submitted the reply before the Conciliation Officer and the reply was exhibited as Ex.P3 wherein the respondent management has stated that the petitioner has committed grave misconduct and that the respondent management had tendered in vain to give a memo in hand to the petitioner and that the petitioner had not attended the duty on 14-04-2014 in order to avoid to receive the memo issued to him and that the petitioner has refused to receive the memo tendered to him in person on two occasions and that the petitioner is free to resume his work and face disciplinary proceedings and he has to be advised to report for duty and the management reserves its right to initiate disciplinary proceedings and that they have denied the other averments of the petitioner. It is also revealed from Ex.P3 that the petitioner was working at the respondent Hospital and he has not been given any notice so far and no termination order was issued in written manner and the petitioner has not even received any show cause notice from the respondent establishment for such an unauthorized absence from 14-04-2014.

10. It is the main contention of the respondent management that the petitioner has not been terminated from service and he has wantonly left from service to avoid receiving memo and that they are ready to admit him into service and at no point of time the petitioner was terminated from service by the respondent management and he has been asked through Conciliation Officer to attend the duty since he was absent from service wantonly from 14-04-2014 and the alleged oral termination is false and that therefore, the claim petition filed by the petitioner is to be dismissed. However, no oral evidence has been let in and no documents have been exhibited by the respondent to prove their contention.

11. From the evidence and pleadings of the petitioner and the contention of the respondent management it is clear that the petitioner was working at the respondent establishment and he has not been terminated so far and no disciplinary action was taken against the petitioner at any point of time and admittedly no domestic enquiry was conducted for any charge. Further, from the evidence of PW.1 and PW.2, it is established by the petitioner that he had been in service from 2008 at the respondent establishment and

that the respondent management has paid EPF contribution for the period from 2008-2009 till 2014-2015 and he was not allowed to attend the duty from 14-04-2014 and hence, he has raised the industrial dispute before the Conciliation Officer and no disciplinary proceedings was conducted against him.

12. It is stated by the respondent management that the petitioner has wantonly left from service from 14-04-2014 and to avoid receiving the memo the petitioner was left from service. But, admittedly the respondent management has not sent any memo to the petitioner for his unauthorized absence for the period from 14-04-2014 and no document is exhibited before this Court by the respondent to prove that the memo was given to the petitioner for his unauthorized absence and that therefore, the alleged refusal of employment to the petitioner without taking proper steps by the respondent management cannot be accepted. It can be presumed from the fact that the petitioner has not been given any memo for his unauthorized absence and no disciplinary action has been taken for the alleged unauthorized absence and that the petitioner was orally refused employment from 14-04-2014 as alleged by the petitioner, the alleged oral refusal of employment to the petitioner is against the principles of natural justice and the respondent has not followed the procedures laid down under the principles of natural justice while orally dismissing the petitioner from service and hence, the petitioner is entitled for order of reinstatement as claimed by him and as such, it is to be held that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified and the petition is liable to be allowed.

13. As this Court has decided that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified, it is to be decided whether the petitioner is entitled for back wages as claimed by him. There is no evidence that the petitioner is working so far and that there is no proof exhibited before this Court that he is working anywhere else. The respondent has not proved the fact that the petitioner has been working in any other establishment after refusal of employment. However, the petitioner could have served at anywhere else after refusal of employment. Considering the above facts and circumstances, this Court decides that the petitioner is entitled only for 25% back wages with continuity of service and other attendant benefits.

13. In the result, the petition is partly allowed and the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified and Award is passed directing the respondent management to reinstate the petitioner in service within one month from the date of this Award and further directed the respondent management to pay 25% back wages from the date of industrial dispute raised by the petitioner before the Labour Conciliation Officer till the date of reinstatement with continuity of service and other attendant benefits. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 29th day of January, 2018.

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

List of petitioner's witnesses:

- PW.1 — 26-12-2016 — Sugumar
PW.2 — 05-12-2017 — Karthikeyan

List of petitioner's exhibits:

- Ex.P1 — 02-06-2014 — Copy of letter sent by the petitioner to the respondent management.
Ex.P2 — 18.06.2014 — Copy of dispute raised by the petitioner before the Labour Officer (Conciliation).
Ex.P3 — 21-07-2014 — Copy of reply submitted by the respondent management before the Labour Officer (Conciliation).
Ex.P4 — 23-07-2014 — Copy of conciliation call letter sent by the Labour Officer to the petitioner.
Ex.P5 — 12-08-2015 — Reference letter of the Government of Puducherry.
Ex.P6 — — Copy of Form-9 with account statements.

List of respondent's witnesses: -Nil-

List of respondent's exhibits : -Nil-

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

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 35/Lab./AIL/T/2018,
Puducherry, dated 9th March 2018)

NOTIFICATION

Whereas, an Award in I.D (T) No. 01/2015, dated 19-01-2018 of the Industrial Tribunal, Puducherry in respect of the industrial dispute between the management of M/s. Novateur Electrical and Digital Systems Private Limited, Puducherry and the Novateur Employees Union over annual increment for the year 2013, over charter of demand for the year 2014 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 19th day of January 2018

I.D. (T) No. 01/2015

The President/Secretary,
Novateur Employees Union,
No. 10, II Cross Street, Gandhi Nagar,
Puducherry-605 009 . . . Petitioner

Versus

The Managing Director,
M/s. Novateur Electrical and
Digital Systems Private Limited,
33/1, PIPDIC Industrial Estate,
Sedarapet,
Puducherry-605 111. . . Respondent

This industrial dispute coming on this day before me for hearing in the presence of Thiruvalargal P.R. Thiruneelakandan and A. Mithun Chakaravarthy, Advocates for the petitioner and Thiruvalargal T.S. Gopalan

and Co. and L. Sathish, Advocates for the respondent, upon hearing both sides and upon perusing the case records, this Court passed the following:

AWARD

1. This industrial dispute has been referred by the Government as per the G.O. Rt. No. 13/AIL/Lab./J/2015, dated 10-02-2015 for adjudicating the following:-

(i) Whether the dispute raised by the Novateur Employees Union against the Management of M/s. Novateur Electrical and Digital Systems Private Limited, Puducherry, over annual increment for the year 2013 and charter of demand for the year 2014 is justified? If justified, what relief the union is entitled to?

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

2. It is to be decided that whether the industrial dispute raised by the petitioner union against the respondent management over annual increment for the year 2013 and charter of demand for the year 2014 is justified or not. The petitioner claimant has filed a claim statement and the respondent has filed a counter statement before this Court.

3. During the course of enquiry, the petitioner union has filed an application along with the 12(3) settlement arrived at between the petitioner union and the respondent management stating that the dispute has been amicably settled out of the Court and 12(3) settlement was entered and executed between them and the respondent management also has endorsed that they have no objection to record the settlement and to close the reference. Since, the petitioner reported that the matter is settled out of the Court and the Counsel for the respondent endorsed no objection, the petitioner is entitled for the benefit of the 12 (3) settlement and therefore, an Award has to be passed in terms of 12(3) settlement.

4. In the result, Award is passed as per the terms of 12(3) settlement and the copy of the 12(3) settlement will form part of the Award, No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 19th day of January, 2018.

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