



புதுச்சேரி மாநில அரசிதழ்

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G. O. Rt. No. 37/Lab./AIL/T/2018,
Puducherry, dated 9th March 2018)

NOTIFICATION

Whereas, an Award in I.D. (T) No. 04/2016, dated 22-01-2018 of the Industrial Tribunal, Puducherry in respect of the industrial dispute between the management of M/s. Shoney Scientific India, Puducherry and the employees Thiru N. Karunakaran and 23 others as listed in the Annexure-I, over illegal closure 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 22nd day of January, 2018

I.D. (T) No. 4/2016

N. Karunakaran and 23 others,
No. 22, Chettikulam Street,
Thiruvalluvar Nagar,
Puducherry - 605 003. . . Petitioner

Versus

The Managing Director,
M/s. Shoney Scientific India,
A30/B, Industrial Estate,
Thattanchavady,
Puducherry - 605 009. . . Respondent

This industrial dispute coming on 11-01-2018 before me for final hearing in the presence of Tvl. P. R. Thiruneelakandan, A. Mithun Chakravarthy & R. Harinath, Advocates for the petitioner, M/s. Law Solvers, Advocates for the respondent on record and subsequently at the time of cross examination of PW.1, the respondent being called absent and set *ex parte*, upon hearing the petitioner and perusing the case records, this Court passed the following:

AWARD

1. This Industrial Dispute arises out of the reference made by the Government of Puducherry, *vide* G.O. Rt. No. 96/AIL/Lab./T/2016, dated 19-10-2016 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(a) Whether the dispute raised by the employees Thiru N. Karunakaran and 23 others as listed in Annexure-I against the management of M/s. Shoney Scientific India, Puducherry, over illegal closure is justified or not? If justified, what relief the employees listed in Annexure-I are entitled to?

(b) 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 petitioners are working at the respondent factory for the past 24 years. They were paid very meager wage and denied various benefits, rights under the labour laws and were subjected to unfair labour practice. Hence, the petitioners decided to form a trade union so as to protect their right and secure decent wage from the respondent through the process of collective bargaining. The respondent management did not wish the workers to form any trade union in the factory and they never allowed functioning any trade union in the factory. The workers who were ventured to form trade union or attempt to join with any trade union were victimised and were denied employment. In the year 2015, the petitioners join together firmly decided to form trade union to protect their right and save the workers from any sort of unfair labour practice, victimisation by the respondent management. The petitioners formed trade union in the name and style of "Shoney Scientific India Thozhilalar Nala Sangam" and submitted application before the Registrar of Trade union on 30-09-2015 for registering the trade union. On receipt of the said application, the Registrar of Trade Union carried out verification proceeding for

registering the trade union. After knowing this matter the respondent took all effort to prevent the workers to form a trade union in the respondent factory. The workers were threatened that not to form any trade union in the respondent factory. The workers were firm to form a trade union and register the same. Hence, the respondent to avert the workers, without any prior notice to the workers, suspended the production and denied employment to the petitioners. Thereafter, the respondent issued closure notice on 30-01-2016 stating that the factory was closed with effect from 31-01-2016 and all the workers including the permanent workers, petitioners herein were denied employment. The respondent factory was running with good profit and there were sufficient orders and requirements to carry out the production activities and the respondent in order to prevent the workers to get register any trade union in its factory without giving statutory prior notice, closed down the factory with an oblique motive to terminate the workers and thereby prevent the petitioners to form any trade union in the respondent factory. The respondent still running the same line of business. The closure of the respondent factory is not real, it is only pretence of closure to terminate the workers and thereby prevent them to form any trade union in the respondent factory. The act of the respondent is unfair labour practice as defined under Schedule 5 of the Industrial Disputes Act. The 60 days prior notice as required under section 25 FFA of the Industrial Disputes Act was not given by the respondent to close down the factory. As per the said provision, the employer who intent to close down the factory shall give 60 days prior notice on which the intended closure become effective. In this case, after a closure notice, dated 31-01-2016, the closure effected on the next day itself. The respondent closed the factory in violation of the statutory provision of section 25FFA of the Industrial Disputes Act with an oblique motive to terminate the workers and thereby prevent them to form and register any trade union in the respondent factory. The closure of the respondent factory is not real and not genuine and it is only, pretence of closure to achieve the illegal object and therefore, prayed to pass an Award holding that the closure of the respondent factory with effect from 31-01-2016 is illegal, unfair labour practice and closure of the factory itself is not real, genuine and it is only a pretence of closure and the consequential denial of employment to the petitioner workers are illegal, unfair labour practice and to direct the respondent to reinstate the petitioners in their service with back wages, continuity of service, with all other attendant benefits.

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

The respondent is a partnership concern engaged in the business of manufacturing medical devices since, 1987 and for its day to day manufacturing activities it engaged 35 employees directly in the payrolls of the establishment. The respondent decided to close down the factory in January, 2016 due to several reasons like cutthroat competition in the market, declining orders and shifting of orders to other companies by the buyers of the respondent. The customers Mickenson stopped their purchase from them completely, Premier started their process of moving over to another much cheaper supplier and the respondent had major problems with payments from Paramount. The major buyers and since, more and more manufacturers were coming in with much cheaper products, the future of the factory did not seem sustainable. The management is left with no other alternative than to close down the unit irrevocably *vide* closure notice with effect from 31-01-2016. The respondent management notified its decision of closure to all the statutory authorities as provided under the Industrial Disputes Act, 1947 together with the Annexure. The respondent management also paid full and final settlement of all the dues to the entire work force and credited in the respective salary account of the employees. The respondent also communicated by individual notices to all the employees to their last known address by RPAD and which have been duly acknowledged by the employees. The employees approached the Labour Officer (Conciliation) and raised an industrial dispute *vide* their representation, dated 02-02-2016 aggrieved against the decision of the closure. The respondent also submitted its reply, dated 11-04-2016 to the Labour Officer (Conciliation) and expressed its inability to consider the demands of the employees and the conciliation proceedings ended in failure. The respondent management also communicated to the Inspectorate of Factories and Boilers, Labour Department *vide* letter dated 02-02-2016 and also surrendered the Factory licence and had obtained the acknowledgment from the Inspectorate of Factories and Boilers, Labour Department, likewise, the respondent management also communicated to the Employees Provident Fund and Employees State Insurance authorities *vide* its letter, dated 02-02-2016 together with its enclosures and had obtained the acknowledgment from the aforesaid authorities. The closure of the factory is real and genuine and the closure is legitimate. The respondent management had duly complied with the procedure contemplated under the Industrial Disputes Act for closure of undertaking which employees less than 50 workers. After complying with the procedures contemplated under the Industrial Disputes Act, the respondent management closed down the factory, hence,

there is no illegality. The respondent is a proprietorship concern, the proprietor does not want to continue the business and the closure of the factory is the prerogative right of the respondent and therefore, prayed to dismiss the claim petition.

4. Despite, several opportunities given to the respondent for cross examination of PW.1, the respondent called absent and no representation for respondent and hence, the respondent was set *ex parte*. On the side of the petitioners, PW.1 was examined and Ex. P1 to Ex.P21 were marked.

5. *The point for consideration is:*

Whether the dispute raised by the petitioners against the respondent management over illegal closure is justified or not and if justified, what is the relief entitled to the petitioners?

6. Heard. It is the evidence of the PW.1 that petitioners were working at respondent factory for the past 24 years and the workers of the respondent factory have formed union and applied for registration of trade union before the Registrar of Trade Union, Labour Department and that after knowing this matter the management without any prior notice to the workers, suspended the production and denied employment to the petitioners with effect from 31-01-2016 which is illegal and unfair labour practice and that the closure of the respondent is not real and not genuine.

7. In support of his evidence, PW.1 has exhibited the copy of the certificate of registration of trade union as Ex.P1, the copy of respondent closure notice as Ex.P2, the copy of petitioner's letter to the Conciliation Officer as Ex.P3, the copy of petitioner's letter to the Conciliation Officer as Ex.P4, the copy of petitioner's letter to the respondent management as Ex. P5, the copy of petitioner's letter to the Labour Commissioner as Ex.P6, the copy of plaint copy of O.S. No. 617/2016 as Ex.P7, the copy of petitioner's letter to the Conciliation Officer as Ex.P8, the copy of petitioner's letter to the Conciliation Officer as Ex.P9, the copy of conciliation notice as Ex.P10, the copy of respondent reply to Labour Officer (Conciliation) as Ex.P11, the copy of petitioner's letter to Lieutenant-Governor as Ex.P12, the copy of petitioner's letter to Enforcement Officer as Ex.P13, the copy of petitioner's letter to Labour Commissioner as Ex.P14, the copy of petitioner's letter to Chief Inspector of Factory as Ex.P15, the copy of petitioner's letter to Labour Commissioner as Ex. P16, the copy of petitioner's letter to the Conciliation Officer as

Ex.P17, the copy of petitioner's letter to SHO, D'Nagar Police Station as Ex.P18, the copy of petitioner's letter to Labour Commissioner as Ex.P19, the copy of petitioner's letter to Labour Commissioner as Ex.P20, the copy of conciliation failure report as Ex.P21.

8. As per the claim statement, evidence and exhibits on the side of the petitioner, it is clearly established by the petitioners that petitioners were working at respondent factory for the past 24 years and the workers of the respondent factory have formed union and applied for registration of trade union before the Registrar of Trade union, Labour Department and that after knowing this matter the management without any prior notice to the workers, suspended the production and denied employment to the petitioners with effect from 31-01-2016 and that 60 days prior notice as required under section 25 FFA of the Industrial Disputes Act to close down the factory has not been given by the respondent for which the petitioners has raised the industrial dispute before the Conciliation Officer and the conciliation proceedings were failed and that therefore, this reference has been made to this Court to decide whether the dispute raised by the petitioner over closure of the factory is justified or not.

9. In this case, though the respondent appeared before this Court and subsequently, despite several opportunities, the respondent did not turn up before this Court and hence, due to their absence, the respondent was set *ex parte*. Considering the fact that the petitioners have established their case that they were working at the respondent factory and the respondent has closed the factory without any prior notice and the closure of the factory is not real and genuine, it is to be held that the industrial dispute raised by the petitioners against the respondent management over illegal closure is justified and the petition is liable to be allowed and as such, the petitioners are entitled for the order of reinstatement as claimed by them.

10. As this Court has decided that the industrial dispute raised by the petitioners against the respondent management over illegal closure of the factory is justified and the petitioners are entitled for the order of reinstatement, it is to be decided, whether the petitioners are entitled for backwages with continuity of service and other attendant benefits as claimed by the petitioner. There is no proof exhibited before this Court that the petitioners were not working anywhere else after the denial of employment at respondent establishment. The petitioners could have served at any

where else after their denial of employment and therefore, this Court does not find any reasonable cause to grant full back wages to the petitioners and consequently, this Court decides to grant back wages of 30% to the petitioners till their reinstatement.

11. In the result, the petition is partly allowed and the industrial dispute raised by the petitioners against the respondent management over illegal closure is justified and an Award is passed by directing the respondent to reinstate the petitioners within one month from the date of this order and to pay 30% backwages from the date of denial of employment till the date of reinstatement with continuity of service and other attendant benefits. No cost.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 22nd day of January, 2018.

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

—————

List of petitioner's witness:

PW.1 — 06-12-2017 — N. Karunakaran

List of petitioner's exhibits:

Ex.P1 — 25-10-2016 — Copy of the certificate of registration of trade union.

Ex.P2 — 30-01-2016 — Copy of respondent closure notice.

Ex.P3 — 01-02-2016 — Copy of petitioner's letter to the Conciliation Officer.

Ex.P4 — 02-02-2016 — Copy of petitioner's letter to the Conciliation Officer.

Ex.P5 — 02-02-2016 — Copy of petitioner's letter to the respondent management.

Ex.P6 — 08-02-2016 — Copy of petitioner's letter to Labour Commissioner.

Ex.P7 — — Copy of plaintiff copy of O.S. No. 617/2016.

Ex.P8 — 11-04-2016 — Copy of petitioner's letter to the Conciliation Officer.

Ex.P9 — 04-05-2016 — Copy of petitioner's letter to the Conciliation Officer.

Ex.P10 — 09-02-2016 — Copy of conciliation notice.

Ex.P11 — 11-04-2016 — Copy of respondent reply to Labour Officer (Conciliation).

Ex.P12 — — Copy of petitioner's letter to the Lieutenant-Governor.

Ex.P13 — 11-07-2016 — Copy of petitioner's letter to the Enforcement Officer.

Ex.P14 — 11-07-2016 — Copy of petitioner's letter to the Labour Commissioner.

Ex.P15 — 11-07-2016 — Copy of petitioner's letter to the Chief-Inspector of Factory.

Ex.P16 — 11-07-2016 — Copy of petitioner's letter to the Labour Commissioner.

Ex.P17 — 31-08-2016 — Copy of petitioner's letter to the Conciliation Officer.

Ex.P18 — 12-09-2016 — Copy of petitioner's letter to the SHO, D'Nagar Police Station.

Ex.P19 — 15-09-2016 — Copy of petitioner's letter to the Labour Commissioner.

Ex.P20 — 30-09-2016 — Copy of petitioner's letter to the Labour Commissioner.

Ex.P21 — 21-09-2016 — Copy of conciliation failure report.

List of respondent's witnessess: 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. 38/Lab./AIL/T/2018,
Puducherry, dated 9th March 2018)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 22/2017, dated 18-01-2018 of the Labour Court, Puducherry, in respect of the industrial dispute between management of M/s. Novateur Electrical and Digital Systems Private Limited, Puducherry, and the Novateur Employees Union, Puducherry, over transfer of four employees *viz.*, Thiruvallargal Anna Jeeva, M. Udayakumar, J. Seetharaman and T. Vetrivel from Puducherry to Semmencherry and unfair labour practice 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.

Thursday, the 18th day of January 2018

I.D. (L) No. 22/2017

The Secretary,
Novateur Employees Union,
10, Second Street, Gandhi Nagar,
Puducherry-605 009. . . Petitioner

Versus

The Managing Director,
M/s. Novateur Electrical and
Digital Systems Private Limited,
33/1, 7th Cross, PIPDIC Industrial Estate,
Sedarapet,
Puducherry. . . Respondent

This industrial dispute coming on this day before me for hearing in the presence of Thiru P.R. Thiruneelakandan and A. Mithun Chakaravarthy, Advocates for the petitioner and Thiru L. Sathish, Advocate 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. 49/AIL/Lab./T/2017, dated 10-04-2017 for adjudicating the following:-

(i) Whether the dispute raised by the petitioner union namely, Novateur Employees Union, Puducherry against the management of M/s. Novateur Electrical and Digital Systems Private Limited, Puducherry, over transfer of four employees *viz.*, Thiruvallargal Anna Jeeva, M. Udayakumar, J. Seetharaman and T. Vetrivel from Puducherry to Semmencherry and unfair labour practice is justified or not? If justified, what relief they are 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 the transfer of employees to Semmencherry and unfair labour practice is justifiable one or not. The petitioner claimant and the respondent though appeared before this Court, have not filed any claim statement and counter statement and no evidence was let in by either side.

3. When the case was posted for filing of claim statement, the President and Secretary of 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 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 18th day of January, 2018.

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

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

*(G O. Rt. No. 39/Lab./AILT/2018,
Puducherry, dated 9th March 2018)*

NOTIFICATION

Whereas, an Award in I.D (L) No.45/2015, dated 29-01-2018 of the Labour Court, Puducherry in respect of the Industrial Dispute between management of M/s. Auromed Hospital P. Ltd., (AUM Hospital), Puducherry and Tmt. D. Kalaiselvi, over her non employment - 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. 45/2015

D. Kalaiselvi,
No. 48, Bajanai Madathu Street,
Manjini Nagar, Muthialpet,
Puducherry.

.. Petitioner

Versus

The Managing Director,
M/s. Auromed Hospital Private,
Limited, (AUM Hospital),
No. 1, Saptagiri Garden, Solai Nagar
Main Road, Muthialpet
Puducherry-605 009

.. Respondents.

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. 93/AIL/Lab./J/2015, dated 12-08-2015 for adjudicating the following:-

(i) Whether the dispute raised by Tmt. D. Kalaiselvi against the management of M/s. Auromed Hospital P. Ltd., (AUM Hospital), Puducherry, over her non-employment is justified? If justified what relief she 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. She is dedicated and very sincere on her duties. The CEO of the respondent management had contacted the petitioner directly on 12-04-2014 and orally ordered not to come to work hereafter 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 her inside as she 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 the CEO but, ended in vain. Therefore, the petitioner had sent letter on 03-06-2014 to the management regarding her 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 section 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 her work on her own accord from 12-04-2014 in order to avoid receiving a memo issued to her. 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 her in person on two occasions and knowing that on 12-04-2014, she would not be able to avoid receiving the memo she 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 her 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 her inside as she 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 the CEO but, ended in vain and that therefore, she had sent letter on 02-06-2014 to the management regarding her 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 section 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 & PW.2 were examined and Ex.P1 to Ex.P7 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 her 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 PW1 and she has stated in his evidence that she 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 she was made an attempt to enter into the Hospital the Security has stopped and has not allowed her 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 she was terminated

from service and even after she made several demands to meet the Chief Executive Officer she was not allowed to meet him and hence, she has sent a letter on 02-06-2014 to the management regarding her salary for the month of April and for employment and that the management had not followed any principles of natural justice and hence, she 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 section 25-F of the Industrial Disputes Act. In support of her 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.P5, the copy of conciliation call letter sent by the Labour Officer to the petitioner as Ex.P4, the copy of the conciliation failure report as Ex.P5 and the reference letter of the Puducherry Government as Ex.P6.

8. Further to prove her 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 01-12-2008 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.P7.

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 12-04-2014 in order to avoid to receive the memo issued to her and that the petitioner has refused to receive the memo tendered to her in person on two occasions and that the petitioner is free to resume her

work and face disciplinary proceedings and she 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 she 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.

10. It is the main contention of the respondent management that the petitioner has not been terminated from service and she has wantonly left from service to avoid receiving memo and that they are ready to admit her into service and at no point of time the petitioner was terminated from service by the respondent management and she has been asked through Conciliation Officer to attend the duty since she was absent from service wantonly from 12-04-2014 and the alleged oral termination is false and that therefore, the claim petition filed by the petitioner is to be dismissed. However, to 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 she 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 she 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 she was not allowed to attend the duty from 12-04-2014 and hence, she 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 12-04-2014 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 her unauthorized absence for the period from 12-04-2014 and no document is exhibited before this Court by the respondent to prove that the memo was given to the petitioner for her 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 her 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 her and as such, it is to be held that the industrial dispute raised by the petitioner against the respondent management over her 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 her non-employment is justified, it is to be decided whether the petitioner is entitled for back wages as claimed by her. There is no evidence that the petitioner is working so far and that there is no proof exhibited before this Court that she 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.

14. In the result, the petition is partly allowed and the industrial dispute raised by the petitioner against the respondent management over her 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 — Kalaiselvi
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 — 21-07-2015 — Copy of conciliation failure report.
Ex.P6 — 12-08-2015 — Reference letter of the Government of Puducherry.
Ex.P7 — — 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.

புதுச்சேரி அரசு

இந்து சமய நிறுவனங்கள் மற்றும் வக்ஃபு துறை

(அரசு ஆணை பல்வகை எண் 56/இசுநி/கோ.2/2018,
புதுச்சேரி, நான் 2018 (வருட) ஏப்ரல் மீ 24 உ)

ஆணை

புதுச்சேரி மாநிலம், காரைக்கால் வட்டாரம், கோட்டுச்சேரி கொம்புன், அருள்மிகு கோடஸ்வரமுடையார் தேவஸ்தானத்தை நிர்வகிக்கும் பொருட்டு, அரசு ஆணை பல்வகை எண் 35/இசுநி/கோ.2/2005-06, நான் 10-11-2005-ன் மூலம் அமைக்கப்பட்ட அறங்காவலர் வாரியத்தால் நிர்வகிக்கப்பட்டு வருகிறது.

2. W.P. No. 24494/2014 & 32762/2016-ன் 26-4-2017-ஆம் தேதியிட்டபடி சென்னை உயர்நீதி மன்ற ஆணை குறிப்பிட்டுள்ளபடி, சென்னை உயர்நீதி மன்றத்தில் அளிக்கப்பட்ட தீர்ப்பின்படி, அப்போது திரு. ந. திருமுருகன் அவர்களால் நிர்வகிக்கப்பட்டு