



புதுச்சேரி மாநில அரசிதழ்

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பொருளடக்கம்

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G. O. Rt. No. 106/AIL/Lab./T/2018,
Puducherry, dated 20th June 2018)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 38/2015, dated 21-05-2018 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. Siechem Technology Private Limited, Puducherry and Thiru S. Manikandan, Villupuram District, over non-employment 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,
Deputy Labour Commissioner.

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

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

Monday, the 21st day of May, 2018

I.D. (L) No. 38/2015

Thiru S. Manikandan,
Mariamman Koil Street,
Thiruchittrambalam Village and Post,
Vanur Taluk, Villupuram District. . . Petitioner

Versus

The Managing Director,
M/s. Siechem Technology
Private Limited,
R.S. No. 104/8 and 105/7,
Sedarapet Main Road,
Puducherry-605 001. . . Respondent.

This Industrial Dispute coming on 27-04-2018 before me for final hearing in the presence of Tvl. P.R. Thiruneelakandan, A.Mithun Chakkaravarthy and R. Harinath, Advocates for the petitioner and Thiru M. Vinayamoorthy, 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. 76/AIL/Lab./J/2015, dated 01-06-2015 for adjudicating the following:-

(a) Whether the dispute raised by the petitioner Thiru S.Manikandan against the management of M/s. Siechem Technology Private Limited, Puducherry, over non-employment is justified? If justified, what relief he is 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 petitioner was appointed as Driver on 20-10-2011 in the respondent establishment. Even since he has been continuously working as a Driver, as such he is a workman as define in section 2(s) of the Industrial Disputes Act. While the petitioner was in service on 06-11-2013, the respondent without any reasonable cause and without assigning reason simply denied employment to the petitioner. After the denial of employment the petitioner approached the respondent and its Administrative Officer requesting them to provide re-employment considering his poor family conditions. The Administrative Officer of the respondent promised to give employment to the petitioner obtained a signature of the petitioner in blank papers to provide re-employment. But, he has not given re-employment to the petitioner. Aggrieved by the denial of employment, the petitioner raised an industrial dispute before the Labour Officer (Conciliation) on 10-02-2014. On receipt of the same the conciliation notice was issued on 13-05-2014 to the petitioner and the respondent. The conciliation meeting was held for several hearings, but, the respondent management has chosen neither appear nor file any statement before the Conciliation Officer. Hence, the Conciliation Officer submitted the failure report on 13-05-2015. After the conciliation was ended in failure the petitioner was informed that the respondent management sent letter to the Conciliation Officer stating that the petitioner resigned from his service accepting full and final settlement. The petitioner has never resigned from service and he had not received any settlement to end his service with the respondent establishment.

The denial of employment to the petitioner with effect from 06-11-2013 is an unfair labour practice and illegal it is liable to be set aside. The petitioner is entitling to reinstatement with full back wages, continuity of service, and all other attendant benefits. The denial of employment to the petitioner without any reasonable cause and without any notice to the petitioner is arbitrary, illegal and clear act of violation of principles of natural justice and violation of model standing order and it is clear act of unfair labour practice as enumerated in Schedule 5 part 1 clause (a), (b), (d), (f) and 16 of the Industrial Disputes Act. The denial of employment in violation of section 25-F of the Industrial Dispute which is illegal. At the time of termination he was paid ₹ 7,739 per month as wage and from the date of denial of employment the petitioner has not been gainfully employed anywhere in any establishment. Therefore, the petitioner prays this Court to pass an Award holding that the denial of employment to the petitioner with effect from 06-11-2013 is an act of unfair labour practice, illegal and consequently, direct the respondent to reinstate the petitioner in his service 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 respondent denied all the allegations made in the claim statement except those that are specifically admitted in the counter and stated that the petition filed by the petitioner workman is not maintainable either in law or on facts hence, it is liable to be dismissed in limine. The relief prayed by the petitioner is legally and factually not maintainable. The claim made by the petitioner is not maintainable under law, and it is frivolous, vexatious, and it is liable to be dismissed even without any basic consideration. The petitioner worked as a Driver in the respondent's company and he received his salary every month from the respondent. While in service, the petitioner himself expressed his desire on his own volition to quit from service and submitted the resignation letter. The petitioner assigned reason in the resignation letter for his resignation, as he has got some personal work. The petitioner's request was considered by the respondent in his favour. The petitioner himself had written/executed his resignation letter in own handwriting on 05-12-2013, and submitted the same before the respondent. Even in the same resignation letter, he clearly claimed a sum of ₹ 28,118 as his full and final settlement amount. The petitioner is an educated person and he has put his signature in English, after properly

writing the resignation letter. In such circumstances, the allegation made by the petitioner that the respondent obtained his signature in some blank papers to provide re-employment, but, he was not given the employment is a baseless allegation and there is no iota of truth in it. Therefore, the petitioner cannot turn around and say that he was denied employment without assigning any reason. When a person voluntarily resigned his job from the employment, the question of assigning reason by the employer does not arise, since, the action arise out of the willingness of the petitioner and not on the desire of the respondent. The petitioner voluntarily resigned from service on 05-12-2013, and claimed the total settlement of ₹ 28,118 on the same day. The petitioner's total claim amount was settled by the respondent on 20-12-2013. The petitioner himself received the amount from the respondent and duly acknowledged the same by giving a receipt. If, this respondent had really denied employment without assigning any reason to the petitioner, he ought to have challenged the same immediately, as possible, whereas, after lapse of 15 days, he had received the entire settlement benefits amount as requested by him from this respondent. Further, the petitioner never endorsed his objection in the full settlement receipt. In fact, the full settlement receipt was written in his own handwriting. The petitioner has not come with clean hands before this Court. Therefore, the question of denial of employment does not arise at all. After receiving the notice from the Conciliation Officer, the respondent deputed his administrative officer to follow the case. In fact, she had appeared some of the hearing and filed adjournment application also. Whereas, she had not appeared for the main enquiry. The fact was explained to the Conciliation Officer through the respondent letter, dated 08-06-2015. In the meantime, the matter was referred before this Court by the Conciliation Officer. There is no will full intension on the part of this respondent for his of non-appearance before the Conciliation Officer. The respondent had acted within the purview of Labour Law and he has not committed any unfair labour practice as alleged by the petitioner. The petitioner voluntarily expressed to resigning job from the company and submitted the resignation letter, the petitioner's request was considered by the respondent in his favour. Therefore, the question of re-employment does not arise at all. The petitioner has already received all benefits in cash from the respondent. Therefore, the relief of re-employment with full back wages does not arise. Therefore, the petition is liable to be dismissed.

4. In the course of enquiry on the side of the petitioner PW.1 was examined and Ex.P1 to Ex.P9 were marked and on the side of the respondent RW.1 was examined and Ex.R1 to Ex.R5 were marked. Both sides are heard.

5. *The point for consideration is:*

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

6. *On the point :*

The pleadings of the parties, the evidence let in by either sides and the exhibits marked on both sides are carefully considered. In order to prove the case of the petitioner the petitioner was examined himself as PW.1 and it is the evidence of the PW.1 that he was working at the respondent establishment from 20-10-2011 as Driver and he was denied employment from 06-11-2013 and after the denial of employment he approached the respondent and its Administrative Officer requesting them to provide re-employment and the Administrative Officer of the respondent promised him to give employment and obtained a signature of him in blank papers to provide re-employment but, they have not given re-employment to him and that therefore, he raised an industrial dispute before the Labour Officer (Conciliation) on 10-02-2014 and conciliation notice was issued on 13-05-2014 to him and the respondent and the conciliation meeting was held and even then the respondent management has not appear before the Conciliation Officer and hence, the Conciliation Officer submitted the failure report to the Government on 13-05-2015 and it is the further evidence of the PW.1 that after, the conciliation was ended in failure it was informed to him that the respondent management sent letter to the Conciliation Officer stating that the petitioner resigned from his service accepting full and final settlement while he was not actually resigned his service and he has not received any settlement from the respondent management.

7. In support of his oral evidence the petitioner has exhibited Ex.P1 to Ex.P9. Ex.P1 is the copy of the petitioner letter to the Labour Officer (Conciliation). Ex.P2 is the copy of the conciliation notice. Ex.P3 is the copy of the petitioner letter to the Labour Officer (Conciliation). Ex.P4 is the copy of the conciliation failure report. Ex.P5 is the copy of the respondent letter to the Conciliation Officer. Ex.P6 is the copy of the

Government reference. Ex.P7 is the copy of the petitioner letter to the management. Ex.P8 is the copy of the A.D. Card, acknowledged by the management. Ex.P9 is the copy of the petitioner letter to the Conciliation Officer.

8. On the other hand to disprove the case of the petitioner the Administrative Officer of the respondent establishment was examined as RW.1 and she has stated in her evidence that the allegation made by the petitioner that the petitioner was denied employment without any reasonable cause and without assigning reason is totally false and actually the petitioner himself expressed his desire on his own volition to quit from service and submitting his resignation letter stating that due to some personal reasons and his request was considered by the management in his favour and resignation was accepted by the management and that the resignation letter was written by the petitioner in his own handwriting on 05-12-2013 and he claimed a sum of ₹28,118 towards his full and final settlement amount and that therefore, the petitioner voluntarily resigned from service on 05-12-2013 and claimed the total settlement of ₹ 28,118 on the same day and the claimed amount was settled by the respondent on 20-12-2013 and the petitioner himself received the amount from the respondent and duly acknowledged the same by giving a receipt and the petitioner has received all the benefits from the company and that therefore, the relief of re-employment with full back wages does not arise.

9. In support of their oral evidence, the respondent management has exhibited Ex.R1 to Ex.R5. Ex.R1 is the copy of the resignation letter submitted by the petitioner. Ex.R2 is the copy of the full settlement receipt. Ex.R3 is the copy of the letter sent by the respondent to the Labour Officer. Ex.R4 is the copy of the letter sent by the respondent to the Labour Officer. Ex.R5 is the copy of the letter sent by the respondent to the Labour Officer.

10. From the pleadings of both the parties, the evidence let in by either side and the documents marked on both sides it can be noticed that following facts are admitted by either side that the petitioner was working at the respondent establishment as Driver from 20-10-2011 till 06-11-2013 and thereafter, the petitioner was not in service at the respondent establishment and he has raised an industrial dispute before the Conciliation Officer on 10-02-2014 and conciliation was failed and the reference has been made to this Court by the Government to adjudicate the same. According to the petitioner his employment was denied by the management with effect from 06-11-2013 without any

reasonable cause and without assigning any reason and he approached the management Administrative Officer and requested him to provide re-employment and the Administrative Officer of the management promised to give employment to the petitioner and obtained his signature in the blank papers to provide re-employment and subsequently, the management has not given re-employment to him and that therefore, he raised the industrial dispute.

11. *Per contra*, the respondent management has stated that this petitioner voluntarily has expressed his desire on his own willingness to quit from service and submitted the resignation letter stating that he has got some personal work and the said resignation letter was accepted by the management and the petitioner also claimed a sum of ₹ 28,118 towards his full and final settlement amount and the said full and final settlement amount was given to the petitioner and the respondent management also denied the allegation that they obtained the signature of the petitioner in the blank papers and that therefore, the only question to be decided by this Court is that whether, the petitioner has resigned the job or whether, the respondent management has obtained the signature of the petitioner in the blank papers. On this aspect the evidence and documents are carefully considered.

12. Except the oral evidence of the petitioner that the Officer of the respondent management has obtained the signature in the blank papers and filled it on their own choice and denied employment from 06-11-2013 no documentary evidence is put forth before this Court or no supporting witness is examined to support the corroborative evidence of PW.1. Admittedly, the petitioner was in service at the respondent establishment for 2 years. It is learnt from the records that the petitioner has given letter to the Conciliation Officer on 10-02-2014 stating that the respondent management has terminated him from service without giving any opportunity though he had been in service for about 2 years as a Driver in the respondent establishment and thereafter conciliation notice was given to the respondent management on 13-05-2014 stating that the conciliation proceedings would be held on 28-05-2014 and thereafter, the petitioner has given a letter on 18-06-2014 to the Conciliation Officer wherein, he has stated that the management has obtained some signature in the blank papers by giving assurance to re-employ him. Further, it is also learnt from Ex.P5 the letter given by the respondent management to the Conciliation Officer on 02-06-2015 that the management has replied to the Conciliation Officer that this petitioner has given resignation letter written by him on his own hand

writing on 05-12-2013 and the respondent management has also made full and final settlement amount to the petitioner with all dues on 20-12-2013 and the same was acknowledged by the petitioner and hence, there is no *prima facie* case for re-employment to the petitioner and it is also learnt from Ex.P5 that the said letter was given by the management along with the copy of the resignation letter and the copy of the receipt of the full settlement amount.

13. The respondent management has exhibited the resignation letter of the petitioner as Ex.R1. The signature in the said letter is not denied by the petitioner and it is alleged by the respondent management that this letter was written by petitioner's own handwriting and only on his willingness it was submitted to the management. From Ex.R1 it is learnt to this Court that the petitioner has asked the final settlement to the tune of ₹ 28,118 from the respondent management. Further, it is learnt from Ex.R2, the receipt given by the petitioner on 20-12-2013 that the petitioner has acknowledged that he has received ₹ 28,118 from the management towards his full and final settlement for the service rendered by him at the respondent establishment. Further, the petitioner PW.1 in his evidence has stated as follows:

“..... 6-11-2013-ல் தான் எனக்கு பணி மறுக்கப்பட்டது. அதே தேதியில் அலுவலக நிர்வாக அதிகாரி அம்மாவை சந்தித்து வேலைக்காக முறையிட்டேன். அதை எழுத்துபூர்வமாகதான் கேட்டேன். வாய்மொழியாகதான் முறையிட்டேன். எழுத்து மூலமாகவும் கொடுத்தேன். அதற்கான ஆதாரம் நீதிமன்றத்தில் கொடுத்திருக்கிறேன். அப்படி எழுத்துமூலமாக கொடுத்திருக்கிறேன் என்றும் அப்படி கொடுக்கவில்லை என்று சொன்னால் சரியல்ல எனக்கு எழுத்துபூர்வமாக பதில் எதுவும் கொடுக்கவில்லை. திரும்ப பணி வழங்குவதாக எனக்கு எந்த ஒரு உறுதியையும் எதிர்மனுதாரர் நிர்வாகம் கொடுக்கவில்லை. என்னிடம் காட்டப்படும் கடிதத்தில் உள்ள கையெழுத்து என்னுடையது அல்ல. அதிலுள்ள வாசகங்களையும் எனது கைப்பட நான் எழுதவில்லை. ஏனெனில், தமிழ் எனக்கு எழுதப்படிக்க தெரியாது. ஆங்கிலம் எனக்கு எழுதப்படிக்க தெரியும். நான் திருச்சிற்றம்பலம் கூட்டரோட்டில் உள்ள காந்தி மேல்நிலைப்பள்ளியில் 10-ஆம் வகுப்பு வரை படித்திருக்கிறேன். தமிழ் மீடியத்தில் தான் படித்தேன். ஆனால், தமிழ் எழுத படிக்கத் தெரியாது. நான் தமிழில் மட்டும் பெயிலாக்கிவிட்டேன். மற்ற பாடங்களை தமிழில் எழுதி பாசாகிவிட்டேன். நான் பணியிலிருக்கும் போது விடுப்பு கடிதம் கொடுத்திருக்கிறேன். விடுப்பு கடிதத்தில் கையெழுத்து மட்டும் போட்டுவிடுவேன். அலுவலகத்தில் எழுதிக்கொள்வார்கள். நானே பணியை வேண்டாம் என்று எழுதிக்கொடுத்துவிட்டு 5-12-2013 அன்று ₹ 28,118 பெற்றுக்கொண்டேன் என்றால் சரியல்ல. பணம் எதுவும் எதிர்மனுதாரர் நிறுவனம் எனக்கு கொடுக்கவில்லை. நான் வழக்கறிஞர் மூலம் வேலை கேட்டு அறிவிப்பு எதுவும் அனுப்பவில்லை.....”.

From the above evidence it is clear that it was suggested by the respondent management to the petitioner that he has given resignation letter to them and the same was written by him on his own hand writing for which the petitioner has stated that he does not know Tamil to read and write and subsequently he has stated that he has studied upto 10th standard in Tiruchitrambalam Kootroad Gandhi Higher Secondary School in Tamil medium and he passed all the subjects by writing examination in Tamil. Therefore, it is clear that only to suppress the facts that he has given resignation letter first the petitioner denied that he does not know Tamil to read or write and subsequently, without no other way he admitted the fact that he has studied upto 10th standard in Tamil and passed all other subjects by writing examination in Tamil.

14. Furthermore, the evidence of the petitioner that the respondent management has obtained signature in the blank papers by deceitful means while he was asking re-employment to him is not supported by any evidence and in *contra* it is elicited by the respondent management in the cross-examination that this petitioner has totally suppressed the fact that he has given resignation letter on his own volition to the respondent management on his own handwriting and has acknowledged the receipt of the full and final settlement stating lie that he does not know Tamil to read and write while he has completed 10th standard in Tamil medium. Further, it is pertinent to note that the petitioner has not at all stated in the Ex.P1 the letter which was given at the first instance by the petitioner to the Labour Officer (Conciliation) and under which the industrial dispute was raised by the petitioner that the respondent management has obtained signature in the blank papers in a deceitful means by giving assurance that they would be given re-employment to him. Hence, it is clear that the petitioner has utterly failed to establish his plea that the respondent management has obtained his signature in the blank papers in a deceitful means by giving assurance to him that he would be re-appointed and the respondent management has denied employment from 06-11-2013 since the respondent management has clearly established the fact that the petitioner has given resignation letter on 05-12-2013 and obtained full and final settlement on 20-12-2013 and he was not denied employment and actually he has left the service on his own willingness by giving resignation letter to the management and that therefore, it is to be held that the industrial dispute raised by the petitioner against the respondent management over, his non-employment is not justified and the petitioner is not entitled for any relief as prayed by him.

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

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court, on this the 21st day of May, 2018.

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

List of petitioner's witness:

PW.1 — 09-03-2017 — S. Manikandan

List of petitioner's exhibits:

Ex.P1 — 10-02-2014 — Copy of the petitioner letter to the Labour Officer (Conciliation).

Ex.P2 — 13-05-2016 — Copy of the conciliation notice.

Ex.P3 — 18-06-2014 — Copy of the petitioner letter to the Labour Officer (Conciliation).

Ex.P4 — 13-05-2015 — Copy of the conciliation failure report.

Ex.P5 — 02-06-2015 — Copy of the respondent letter to the Conciliation Officer.

Ex.P6 — 01-07-2015 — Copy of the Government reference.

Ex.P7 — 13-01-2014 — Copy of the petitioner letter to the management.

Ex.P8 — — — Copy of the A.D card, acknowledge by the management.

Ex.P9 — 18-06-2014 — Copy of the petitioner letter to the Conciliation Officer.

List of respondent's witness:

RW1 — 09-01-2018 — Usha @ Usharani

List of respondent's exhibits:

Ex.R1 — 05-12-2013 — Copy of the resignation letter submitted by the petitioner.

Ex.R2 — 20-12-2013 — Copy of the full settlement receipt.

Ex.R3 — 08-06-2015 — Copy of the letter sent by the respondent to the Labour Officer.

Ex.R4 —01-06-2015 —Copy of the letter sent by the respondent to the Labour Officer.

Ex.R5 —02-06-2015— Copy of the letter sent by the respondent to the Labour Officer.

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

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 113/AIL/Lab./T/2018,
Puducherry, dated 26th July 2018)

NOTIFICATION

Whereas, an Award in I.D. (T) No. 08/2017, dated 13-06-2018 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Suolificio Linea Italia (India) Private Limited, Puducherry and Chemcrown Exports and Suolificio Linea Italia (India) Private Limited Thozilalargal Sangam over non-payment of 20% bonus and ₹ 10,000 as *ex gratia* for the year 2015-2016 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. SENDIL KUMAR, B.A., B.L.,
Presiding Officer.

Wednesday, the 13th day of June, 2018.

I.D. (T) No. 08/2017

The President,
Chemcrown Exports and
Suolificio Linea Italia (India) Private
Limited Thozilalargal Sangam,
42, Cuddalore Road,
Bharathi Mill Thittu,
Mudaliarpatt, Puducherry-605 004. . . Petitioner

Versus

The Managing Director,
M/s. Suolificio Linea Italia (India)
Private Limited,
19/1 and 4/4, Mylam Pondy Road,
Sedarapatt, Puducherry-605 011. . . Respondent.

This industrial dispute coming on 11-06-2018 before me for final hearing in the presence of Thiru R.T. Shankar, Advocate for the Petitioner, Tvl. K. Babu and S. Karthikeyan, Advocates for the respondent on record and subsequently, the respondent called absent and for non-filing of Counter, the respondent was 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. 58/AIL/Lab./T/2017, dated 19-04-2017 of the Labour Department, Pondicherry to resolve the following dispute between the petitioner and the respondent *viz.*,

(i) Whether the dispute raised by the union workmen Chamerown Exports and Suolificio Linea Italia Private Limited Thozilalargal Union, Puducherry against the Management of M/s. Suolificio Linea Italia (India) Private Limited, Puducherry, over non-payment of 20% bonus and ₹ 10,000 as *ex gratia* for the year 2015-2016 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. *The averments in the claim statement of the petitioner, in brief, are as follows:*

The petitioner union is a registered Trade Union under the provision of the "Trade Unions Act, 1926; *vide*, Registration No. 1338/RTU/2003, which raised an industrial dispute for demanding of 20% Bonus and ₹ 10,000 as *ex gratia* as per "The Payment of Bonus (Amendment) Act, 2015, No. 6 of 2016", for the year 2015-2016. The respondent Company is a Company incorporated under the provision of the "Indian Companies Act, 1913" and it is having a factory functioning at Sedarapatt for the past 11 years, in which more than 250 employees are working. The petitioner union demanded 20% bonus with ₹ 10,000 as *ex gratia* for the 2015-2016 for which the respondent management refused to pay the same. Therefore, the petitioner union filed their representation before the Labour Officer (Conciliation),

Puducherry on 03-10-2016 stating that they are working in the respondent establishment and they have requested the Management to disburse bonus within the month of October at the rate of 20% bonus and *ex gratia* at ₹ 10,000 as per the Bonus Act. During the course of conciliation proceedings, the Union demanded 20% bonus with *ex gratia* of ₹ 10,000 under the revised provisions of "The Payment of Bonus (Amendment) Act, 2015, No. 6 of 2016" recommended by the Central Government. But, the respondent management has not agreed and filed reply statement stating that they are ready to pay 8.33% bonus with a ceiling of ₹ 7,000 along with *ex gratia* of an amount of ₹ 3,000. The petitioner union not agreed the same. Therefore, the dispute is not settled before the Labour Officer (Conciliation) and ended in failure. The respondent Company is governed by the Payment of Bonus Act and it maintains a single balance sheet and a single P and L A/c for the Company as a whole and bonus is declared on the basis of the Company's balance-sheet and the P and L A/c and in accordance with the Payment of Bonus Act. The respondent management denied the legitimate bonus of 20% and *ex gratia* payment of ₹ 10,000 to the workmen of the petitioner union, while the same is paid to the Staff/Managers of the same company. The respondent company is a highly profitable company and it is one of the biggest companies operating in India and making huge profits of crores and crores of rupees and thereby, they are having massive surplus fund and these profits are made from the sweat and blood of the labours. The other companies which is located in the same region with much lesser profits pay huge amounts of 20% as bonus and *ex gratia* to its employees. The respondent management willfully, wantonly and deliberately denied and refused to grant 20% bonus with *ex gratia* of ₹ 10,000 to their employees. The workmen were not being given a fair share of the profits of the company. It is illegal and against the Payment of Bonus Act. The respondent company is a big industrial establishment and there is no other similar establishment of that size in that region. The volume of business of the respondent company is many more times more than the competitive companies and the respondent company is financially sound. While being so, the respondent company adamantly has not paid the 20% bonus with ₹ 10,000 as *ex gratia* without any valid reason, which was paid previous year. Therefore, the petitioners pray to direct the respondent company to pay 20% Bonus as per "The Payment of Bonus

(Amendment) Act, 2015, No. 6 of 2016" with ₹ 10,000 as *ex gratia* to their employees for the year 2015-2016 and the same may be continued in future.

3. Though the Counsels for the respondent filed vakalat, despite several opportunities, no Counter was filed on behalf of the respondent and hence, the respondent was set *ex parte*. In the course of enquiry, on the side of the petitioner PW.1 was examined and Ex.P1 to Ex.P3 were marked. Heard.

4. *The point for determination is:*

Whether the dispute raised by the petitioner union against the respondent management, over non-payment of 20% bonus and ₹ 10,000 as *ex gratia* for the year 2015-2016 is justified or not and if justified, what is the relief entitled to the petitioners?

5. *On the point:*

The claim statement filed by the petitioner union, the evidence let in and exhibits marked by it have been carefully perused. In order to prove their case, the petitioner union has examined PW.1. The PW.1 has deposed to the effect that the petitioner union is a registered Trade Union and the Trade Union demanded 20% bonus with ₹ 10,000 as *ex gratia* for the year 2015-2016 and the same was refused by the management without any valid reason and therefore, the petitioner union has raised an industrial dispute before the Labour Conciliation Officer and the conciliation was ended in failure and hence, the matter has been referred by the Government to this Court for adjudication.

6. To buttress the evidence of PW.1, the petitioner union has exhibited Ex.P1 to Ex.P3. The Ex.P1 is the copy of letter submitted by the Trade Union on 03-10-2016 before the Labour Officer. The Ex.P2 is the copy of letter submitted by the respondent management on 24-10-2016 before the Labour Officer (Conciliation). And, Ex.P3 is the copy of conciliation failure report, dated 21-12-2016.

7. From the above evidence and documents, it is clearly established by the petitioner union that the petitioner union demanded the management to pay 20% bonus with ₹ 10,000 as *ex gratia* for the year 2015-2016. But, the management has not paid the 20% Bonus with ₹ 10,000 as *ex gratia* without any valid reason which was paid for the past several years and therefore, the petitioner union has raised the industrial dispute before the Conciliation Officer and the conciliation proceedings were failed and therefore, this reference has been made

to this Court to decide whether the dispute raised by the petitioner union over non-payment of 20% bonus and ₹ 10,000 as *ex gratia* for the year 2015-2016 is justified or not.

8. Even though, the Counsels for the respondent has filed vakalt, despite several opportunities, no Counter was filed on behalf of the respondent and hence, the respondent was set *ex parte* on 07-03-2018. By the non-appearance of the respondent and non-filing of counter, adverse inference could also be drawn against the respondent. On a careful perusal of the evidence of the PW.1 and Ex.P1 to Ex.P3, it could be held that the petitioner union has proved their case and as such, it is to be held that the industrial dispute raised by the petitioner union against the respondent management over non-payment of 20% bonus and ₹ 10,000 as *ex gratia* for the year 2015-2016 is justified and the petitioners are entitled for the order as claimed by them and as such, the petition is liable to be allowed.

9. In the result, the Petition is allowed and the industrial dispute raised by the Petitioner Union against the respondent management over non-payment of 20% bonus and ₹ 10,000 as *ex gratia* for the year 2015-2016 is justified and Award is passed directing the respondent management to pay. 20% bonus as per "The Payment of Bonus (Amendment) Act, 2015, No. 6 of 2016" with ₹ 10, 000 as *ex gratia* to their employees for the year 2015-2016. No cost.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 13th day of July, 2018.

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

List of petitioner's witness:

PW.1 — 11-06-2018 — Pachamuthu

List of petitioner's exhibits:

Ex.P1 — 03-10-2016 — Copy of letter submitted by the Trade Union before the Labour Officer.

Ex.P2 — 24-10-2016 — Copy of letter submitted by the respondent management before the Labour Officer (Conciliation).

Ex.P3 — 21-12-2016 — Photocopy of conciliation failure report.

List of respondent's witnesses: Nil.

List of respondent's exhibits: Nil.

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

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 114/Lab./AIL/T/2018,
Puducherry, dated 26th July 2018)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 49/2017, dated 08-06-2018 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Mars Pest Management Systems (India) Private Limited, Puducherry and Thiru S. Augustin, Puducherry, over non-employment with back wages 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. SENDIL KUMAR, B.A., B.L.,
Presiding Officer,

Friday, the 08th day of June, 2018.

I.D. (L) No. 49/2017

Thiru S. Augustin,
S/o. Sengolraj,
No. 56, Easwaran Koil Street,
Marie Oulgaret,
Puducherry-605 010.

. . . Petitioner

Versus

The Managing Director,
M/s. Mars Pest Management
Systems (India) Private Limited,
Puducherry Branch, No. 20, 45 Feet Road,
Vengateswara Nagar,
Puducherry-605 011. . . Respondent.

This industrial dispute coming on 07-06-2018 before me for final hearing in the presence of Thiru A.K. Thirumurugan, Advocate for the petitioner, 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. 136/AIL/Lab./T/2017, dated 05-09-2017 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, viz.,

(i) Whether the dispute raised by the petitioner Thiru S. Augustin, Puducherry against the management of M/s. Mars Pest Management Systems (India) Private Limited, Puducherry, over non-employment with back wages is justified or not? 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 case of the petitioner is that he was appointed as a Senior Technician in the respondent's company on 12-03-2012. After completion of his probation period of 6 months, he was regularised as a permanent staff of the company with effect from 01-09-2012 with all facilities and benefits at the Pay Scale of ₹ 6,500 per month. It was gradually increased and now fixed as ₹ 10,550 per month. In the month of November-2016, he came to know that his Provident Fund including his contribution was not duly paid with the authorities, inspite of deduction from his salary and his Provident Fund Number given by the management is also false and the last paid installment of Provident Fund contribution was also disproportionate to his paid salary as on 11-11-2013 and hence, he approached the Commissioner of Provident Fund for his intervention in this matter and subsequently, he came to know that the respondent had rectified the dues of his Provident Fund and that right from 10-01-2017, the respondent had not allotted any duty to him as being annoyed of the complaint preferred by him as against the

respondent at the Provident Fund Authority for his regularisation of his Provident Fund and he was lastly attending his duty at Hotel Accord, Puducherry along with his co-workers till 31-12-2016 and on 10-0-2017, when he was reporting to duty to his superior, the Branch Manager refused to employ him for no reason and such act of refusal to allot duty to him would amount to refusal of duty or other wise termination which is highly improper, illegal and such a practice of management is a tactics to terminate the duty and the respondent unlawful act of termination of labour is a victimization to settle the score as against his complaint at the Provident Fund Office, which is against the common natural justice and labour law. After his termination of duty, his family is suffering for their livelihood and hence, he approached the Labour Conciliation Officer for his relief on 01-02-2010 *vide* No. 166/LD/AIL/2017 and that the respondent management has flouted out of the principles of natural justice by neither issuing show-cause notice nor conducting any enquiry, whatsoever, to find him guilty, but, dismissed him out of service, arbitrarily and the respondent management had not even replied for the last request made by the petitioner *vide* his personal letter, dated 20-01-2017, issued through his Advocate to show cause the reason for his termination.

3. It is further stated by the petitioner that the termination is void as it is illegal and against the principles of natural justice on the ground that the respondent management has terminated him on 10-01-2012 without following mandatory provisions of law, the labour enactment and that the respondent management has not coined any reason for the termination of him which is against the principles of natural justice and he caused a personal letter on 20-01-2017, wherein, he sought for employment from the respondent company for his no fault; but, he has been abruptly terminated from service without any justification. Then he raised an industrial dispute on 01-02-2017 having failed in his attempt in person through the letter to get back his employment before the Conciliation Officer, Puducherry and the respondent has neither replied to his letter nor responded to the summons of the Conciliation Officer, Puducherry and by the ignorant act of the respondent management, the Conciliation Officer has held the proceedings as failure and reported on 05-09-2017, *vide* letter No. 136/AIL/Lab./T/2017 and also caused notification in the Official Gazette and therefore, the petitioner prayed this Court to pass an Order by rejecting the oral Order of termination by the respondent management against the petitioner by declaring that the termination of the petitioner, dated 10-01-2017, is void,

illegal, improper and to order the respondent management to reinstate the petitioner with continuity of service with full back wages and other attendant benefits till the date of reinstatement.

4. This Court has issued notice to the respondent. But, it was not claimed by the respondent. The respondent called absent on 05-01-2018 and he was set *ex parte*. In the course of enquiry, the petitioner has been examined himself as PW.1 and has marked the documents as Ex.P1 to Ex.P5. Heard.

5. *The point for determination is:*

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

6. *On the point:*

The claim statement filed by the Petitioner, the evidence let in and exhibits marked by him have been carefully perused. The petitioner/PW.1 has deposed to the effect that on 12-03-2012, he was appointed as a Senior Technician in the respondent's Company and he was regularised as a permanent staff of the company with effect from 01-09-2012 and in the year 2016, he had made a complaint to the authority about the non-payment of his Provident Fund and to seek relief entitled to him, for which the respondent management to victimize him, has terminated his service without any justification and against which, he has raised an industrial dispute before the Conciliation Officer and the conciliation was ended in failure and the matter has been referred by the Government to this Court for adjudication.

7. To buttress his evidence, the Petitioner has exhibited Ex.P1 to Ex.P5. The Ex.P1 is the copy of complaint given by Petitioner to the Provident Fund Commissioner (mentioned as Superintendent). Ex.P2 is the copy of Order of regularisation issued by the respondent, dated 02-11-2012. Ex.P3 is the copy of Identity Card of the petitioner issued by the respondent. Ex.P4 is the copy of application to the Conciliation Officer sent by the petitioner, dated 01-02-2017 and, Ex.P5 is the copy of reference issued by the Labour Department, dated 05-09-2017.

8. From the above evidence and documents, it is clearly established by the petitioner that he was working at the respondent establishment as a permanent staff and he has been terminated from service without following any procedure laid down under the Industrial Disputes Act by the respondent, for which he 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 non-employment with back wages is justified or not.

9. Despite, notice was sent to the respondent, he did not claim it and did not appear before this Court to file his counter objection and consequently, the respondent was set *ex parte* on 05-01-2016. On a careful perusal of the evidence of the petitioner/7 PW.1 and Ex.P1 to Ex.P5, it could be held that the petitioner has proved his case. As such, it is to be held that the industrial dispute raised by the petitioner against the respondent management, over his non-employment with back wages is justified and the petitioner is entitled for the Order of reinstatement as claimed by him and as such, the petition is liable to be allowed.

10. As this Court has decided that the industrial dispute raised by the petitioner against the respondent management, over his non-employment with back wages is justified, it is to be decided whether the petitioner is entitled for back wages as claimed by him. Absolutely, there is no evidence let in by the petitioner to prove that he has not worked or is not working in any other industry. It could be inferred that no one can feed himself without any earning. The petitioner should have served at any other industry after his termination. Therefore, considering the above facts and circumstances, this Court decides that the petitioner is entitled only for 50% back wages with continuity of service and other attendant benefits.

11. In the result, the petition is allowed and the industrial dispute raised by the petitioner against the respondent management, over non-employment with back wages 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 directing the respondent management to pay 50% back wages to the petitioner from the date of termination 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 08th day of June, 2018.

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

List of petitioner's witness:

PW.1 — 07-06-2018 — Augustin

List of petitioner's exhibits:

Ex.P1 — — Copy of complaint given by petitioner to the Provident Fund Commissioner.

Ex.P2— 02-11-2012 — Copy of Order of regularisation issued by the respondent.

Ex.P3 — — Copy of Identity Card of the petitioner issued by the respondent.

Ex.P4— 01-02-2017 — Copy of application to the Conciliation Officer sent by the petitioner.

List of respondent's witness: Nil.

List of respondent's exhibits: Nil.

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

GOVERNMENT OF PUDUCHERRY
TRANSPORT DEPARTMENT

(G.O. Ms. No. 7/Tr. Sectt./2018,
Puducherry, dated 24th October 2018)

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of section 13 of the Puducherry Motor Vehicle Taxation Act 1967 (Act 5 of 1967), the Lieutenant-Governor, Puducherry, is pleased to extend the time limit up to 30-11-2018 for payment of Motor Vehicle Tax for the 3rd quarter of the financial year 2018-19 *i.e.*, from 1-10-2018 to 31-12-2018 in respect of all Transport Vehicles used or kept for use in the Union territory of Puducherry.

(By order of the Lieutenant-Governor)

DR. A.S. SIVAKUMAR,
Joint Secretary to Government (Transport).

GOVERNMENT OF PUDUCHERRY
CHIEF SECRETARIAT (FISHERIES)

(G.O. Ms. No. 19/Fy, Puducherry dated 24th October 2018)

ORDER

Selvi M. Shamshad, Assistant Director of Fisheries, Department of Fisheries and Fishermen Welfare, Puducherry is admitted into retirement with effect from the afternoon of 31-10-2018 on attaining the age of superannuation.

(By order)

N. GANDHIRAJAN,
Under Secretary to Government (Fisheries).

GOVERNMENT OF PUDUCHERRY
DIRECTORATE OF SCHOOL EDUCATION
(SECRETARIAT WING)

(G.O. Ms. No. 44, Puducherry, dated 24th October 2018)

NOTIFICATION

On attaining the age superannuation, Thiru A. Madhavan, Vice-Principal, V.V.R. Government Technical Higher Secondary School, Lawspet, Puducherry, is admitted into retirement, with effect from the afternoon of 31-10-2018.

(By order)

P. EJOUMALE,
Under Secretary to Government
(School Education).

GOVERNMENT OF PUDUCHERRY
FINANCE DEPARTMENT

(G.O. Ms. No. 110/F2/A2/2018,
Puducherry, dated 24th October 2018)

NOTIFICATION

On attaining the age superannuation, Thiru C. Essoudosse, Store Superintendent, Buildings and Roads (Central) Division, Public Works Department, Puducherry, is admitted into retirement, on the afternoon of 31-10-2018.

(By order)

V. JEEVA,
Under Secretary to Government (Finance).

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 148/AIL/Lab./T/2018,
Puducherry, dated 24th October 2018)

NOTIFICATION

Whereas, the Government is of the opinion that an industrial dispute has arisen between the management of M/s. Hindustan Unilever Limited, Detergent Factory, Vadamangalam, Puducherry and Thiru K. Rajaram, Ariyur, Puducherry, over revocation of prolonged suspension with wage dues in respect of the matter mentioned in the Annexure to this order;

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