



புதுச்சேரி மாநில அரசிதழ்

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 80/Lab./AIL/T/2018,
Puducherry, dated 16th May 2018)

NOTIFICATION

Whereas, an Award in I.D. (T) No. 36/2012, dated 02-04-2018 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of the industrial dispute between the Management of M/s. Soundararaja Mills, Karaikal and Nedungadu Soundararaja Mill Thozhilalar Sangam, CITU, Karaikal, over termination of 123 workers by way of voluntary retirement scheme 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 02nd day of April, 2018

I.D. (T) No. 36/2012

Nedungadu Soundararaja Mill
Thozhilalar Sangam,
CITU (Reg.No.126/72P),
Rep., by its General Secretary,
No. 14, Thennur, Rajiv Nagar,
Karaikal.

.. Petitioner

Versus

The Employer,
Soundararaja Mills,
Nedungadu, Karaikal.

.. Respondent

This Industrial Dispute coming on 12-03-2018 before me for final hearing in the presence of Thiru N. Ramar, representative for the petitioner and Thiru G. Jagadharaj, Advocate for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This Industrial Dispute has been referred by the Government as per the G.O. Rt. No. 17/2004/Lab./AIL/J, dated 03-02-2004 for adjudicating the following:-

(i) Whether the termination of 123 workers by the Management of M/s. Soundararaja Mills Limited, by way of voluntary retirement service scheme is justified or not?

(ii) To what relief, the petitioners are entitled to ?

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

The above reference originally taken on file by the District Court at Karaikal which was being functioned as Labour Court in industrial dispute No.03/2004 and subsequently when this Industrial Tribunal-cum-Labour Court established in the year 2012, the case has been transferred to this Court and this case was taken on file by renumbering it as Industrial Dispute (L). No. 36/2012.

2. *The averments in the Claim Statement of the petitioner, in brief, are as follows:*

All the 123 workers, on whose behalf the industrial dispute is raised, are members of the petitioner union which is registered under Trade Union Act, 1926 with Registration No. 126/72. A substantial number of the workers employed by the respondent mills are the members of the petitioner union. The respondent is a Textile Mills in Karaikal which was established in the year 1966. Admittedly, the mill is doing well. According to the petitioner union, the respondent employed 1100 workers of which only 300 were permanent. According to the respondent management, they employed 750 workers in all including apprentices. Out of the 1100 workers, nearly 700 are apprentices and badlis 100 contract workers. Only 300 are permanent workers. The permanent workers get about ₹ 5,000 to ₹ 6,000 per month whereas, the badlis are paid about ₹ 1,200 per month on daily wage basis. There is not a single woman worker who is permanent. All the women workers are only apprentices. A good portion of the work is got done through them. There is

a separate settlement under section 18(1) of the Industrial Disputes Act 1947, only with reference to women workers. According to this settlement, they are paid a daily wage and they have no provident fund, ESI., gratuity. At the end of 3 years these women worker are supposed to be given ₹ 20,000 for marriage. But, this is not given even at the end of 5 years. Thus, a substantial portion of the work is got done through women workers, who are being exploited. Since, most of the permanent workers are male, and the management has got to pay ₹ 5,000 to ₹ 6,000, according to textile agreement, they wanted to get rid of the male workers and get the work done through women works by further exploiting them. Therefore, between the period 1997-2002, the respondent harassed the male workers in such a way that the end of the day tokens used to be taken away. When they asked for the tokens, they were asked to go to the Labour Officer. When they went to the Labour Officer, they were directed to meet the Spinning Master. They told these permanent workers that it was more profitable to engage women workers. Therefore, they asked the male workers to accept the compensation and go out. They told that if, the workers do not resign and take some voluntary reirement service amount and go out, they will be sent out in other ways in which case they were told there will not be any compensation. In this process, 123 workers mentioned in the Annexure were got rid off by getting forced letters of resignation or voluntary reirement service of them 90 are permanent workers and 33 are badli workers. The respondent management told the badlis that they are not going to make any worker permanent hereafter and if, would be better for them to accept the compensation and go out. Otherwise they stated that know-how to send them out. As stated the management had not made permanent any badli workers during the period 2001-2002. But, after sending out 33 badli workers, and after persisted demands made by both union and several public organization of Nedungadu, the management made 20 badli workers as permanent during the year 2003. There are about 100 more permanent male workers, who have been sent out in this fashion and are remaining outside. The Labour Officer wanted to stop with this 123 for the present. The others are eagerly waiting outside, so that they also can pursue the matter once the result in this dispute is known. These 123 workers had put in long years of service. There was not a single complaint against them. They have families and they are middle aged and they had many more years of service to go. There was no compelling reason for them to either resign or go under the voluntary retirement scheme. It was really forced

on them. Even according to the respondent there is no settlement with any union agreeing to a voluntary retirement scheme. In fact, the managements case itself is that there was an oral settlement with INTUC union. There was no such oral settlement nor was any scheme put up on the notice-board. Different workers were paid different amounts depending upon the whims and caprice of the management which would not be the case, if, there was really a scheme. Even the INTUC Union with whom the management claims to have entered into an oral settlement issued pamphlet on 23-01-2003 questioning this forced termination. On 26-01-2003, there was a huge public meeting at Nedungadu organised by various associations and trade unions questioning this mass forced termination. It must be stated that in Karaikal, the respondent mills has been one of the major sources of employment. With this kind of termination, numbers of families have been thrown to the streets. These 123 workers had been representing to the respondent to provide them employment. They were questioning their termination. The respondent tried to appease some of the workers by paying some more money. The management also tried to evade the issue by stating that they would talk to the Managing Director. This way the matter got postponed. Not finding any tangible solution, the workman raised the present dispute. They were represented by the petitioner. Later, the petitioner raised the dispute. The 1st batch of such representation was made on 24-1-2003. The petitioner explained as to how they were harassed and forced to resign or go under the voluntary reirement service. The workers who were working the Spinning department were forced to go and work in the Carding department where there was a lot of dust. The workers who were in the Maintenance department were asked to go and work in the Spinning department, where they did not know the work. Later, they were found fault with for not doing the work. In umpteen ways they were harassed. Another batch of workers gave representation on 01-04-2003 and 09-04-2003 requesting for reinstatement or atleast extra compensation. The 33 badli workers made representation and demanded permanency. This was not a case of resignation or one going under voluntary reirement service. on his own. It will be clear from the case relating to serial No. 18 Mr. Evarist. The management stated that he resigned on 16-08-2001 and he was paid ₹ 64,000 by way of gratuity and ₹ 43,000 by way of voluntary reirement service. The worker immediately protested on 18-08-2001 by sending a letter by registered post stating that he had only sent an ESI leave letter by registered post and the management had foisted a resignation on him. Using

a resignation letter had obtained from him in the month of May 2001 by threat and intimidation when he was rejoining duty after absencing a day in May 2001. If really, this worker Evarist had resigned, there was no reason why they should have given him voluntary retirement service compensation. He had also immediately protested. All this speaks volumes about the conduct of the management and the unfair labour practice restored to by them. On the petitioner union raising a dispute, the Labour Officer initiated conciliation by his letter, dated 05-03-2003. The management sent 3 replies, dated 25-03-2003, 04-06-2003 and 04-07-2003. The petitioner submitted a reply, dated 07-07-2003. The management took up every conceivable point in the conciliation. They stated that the petitioner union had no representative capacity which is not correct. A substantial number of the workers employed in the respondent Mills are members of the petitioner union. The 123 workmen, by themselves would constitute a substantial number. Since, under section 2-A non-employment is deemed to be an Industrial Dispute Act, the question of substantial number does not arise under section 2(k) of the Industrial Dispute Act. The respondent management in their reply, date 04-06-2003, have stated that 108 out of 110 workers except Prabakaran and N. Chandrasekaran, had gone on their own. In the case of other two, according to the management Prabakaran accepted additional compensation of ₹ 25,000 on 03-02-2000 by signing a 12(3) settlement if, it was a case of voluntary retirement under a scheme it is not clear as how additional compensation was paid. It only shows that the respondent was trying to patch up for having forced a resignation or imposed voluntary reirement scheme on the workers. On 07-07-2003, the petitioner union sent a reply stating that it was all a case of forced resignation. The following circumstances will show that it is not a case of either voluntary resignation or voluntary retirement. The reference itself stated weather the 'termination of 123 workers by way of voluntary reirement service is justified. 90 of 123 workers were all the male permanent workers who were getting ₹ 5,000 to ₹ 6,000 per month. They were middle aged and had families. There was no reason for them to resign or go under voluntary reirement service. It is not as if, the workmen had better alternative jobs on hand. Most of the workers who were doing the work were female workers who were getting hardly ₹ 1,500 with no statutory benefits like ESI. provident fund, gratuity. None of them had gone on voluntary reirement scheme. It only shows that management wanted to get rid of the permanent workers and got the work done through female workers. There was no

written agreement regarding voluntary reirement service. and it was also not put up on the notice-board. If, orally a voluntary reirement service.had been offered and it was there, different amounts would not have been given to workers without any basis. The respondent in their letter, dated 25-07-2003 has stated that there was a oral settlement with INTUC. If, that was so, there was no reason as to why the INTUC should have distributed pamphlets about forced termination, demanding reinstatement. What the management have done is clearly an act of unfair labour practice under V Schedule to Industrial Dispute Act 1947, item No. 5 which is an act of victimisation. There cannot be a more telling example for unfair labour practice and victimization than this case. The number speaks for itself. Therefore, the petitioner prayed this Court to answer the reference holding that the termination of 123 workers is illegal, unjustified and an act of victimisation and consequently direct the management to reinstate the workmen concerned 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 and averments contained in the claim statement except those which are specifically admitted. The respondent would raise a preliminary objection that the present industrial dispute raised by the petitioner union is not maintainable in law. The respondent employs about 750 workmen under various categories including the staff. At all relevant times, when the voluntary retirement scheme was being implemented, the INTUC and LPF were alone the recognised trade unions and the CITU is not recognized by the respondent. The respondent entered into several settlements in the past, with these two recognised unions both under section 18(1) and 12(3) of the Industrial Disputes Act, 1947. The CITUC has never been a party to such settlements, because it has no membership among the workman of the respondent Mill. In fact, all the 123 workmen, who are parties to the present dispute, were members of the INTUC till the last date when they resigned under the voluntary retirement scheme and settle their accounts by receiving from the respondent the gratuity voluntary retirement scheme benefit and *ex gratia*. None of them was a member of the CITUC and paid the membership subscription. Only after a few of the 123 resigned persons raised 2 A industrial disputes, the petitioner union approached the other resigned persons by making them false promises that they would obtain for them from the respondent further substantial amounts and

believing their false promises, the resigned persons supported it. This subsequent development after all 123 resigned persons have received without any reservation their gratuity, voluntary retirement scheme benefit and *ex gratia* from the respondent giving full acquaintance. Therefore, neither individual resigned person nor the petitioner union on their behalf can raise a valid industrial dispute against the respondent. The petitioner union had never enjoyed any substantial following among the workmen of the respondent and thus the petitioner has no *locus standi* at all to raise an industrial dispute under section 2(k) of the Industrial Dispute Act, 1947 and on which ground alone, the present dispute raised by the petitioner is liable to be dismissed. The respondent begs to raise another preliminary objection that the petitioner Union has not followed the statutory and mandatory legal procedure to raise the present dispute in that it has not conducted a General Body meeting of its so called members, who were workmen of the respondent nor the workmen attending the meeting passed any resolution authorising the General Secretary N. Ramar to raise the present dispute against the respondent. The petitioner union failed to produce any document before the Labour Officer (Conciliation) in this regard. It is well settled law that an industrial dispute raised by the union without following these legal procedures is unsustainable in law and liable to be rejected and on which ground also the present industrial dispute raised by the petitioner is liable to be rejected. The respondent would raise, another preliminary objection that as per recent decisions of the Higher Courts including the Hon'ble Apex Court that when the worker accepts the voluntary retirement scheme benefits after his resignation or even as part of the voluntary retirement scheme benefits from his employer, he cannot raise any industrial dispute alleging that his service was terminated by the employer against his wish and on which ground also the present industrial dispute raised by the petitioner is liable to be rejected. The respondent prayed to treat the abovesaid objections as preliminary issues and decide the very maintainability of the present dispute raised by the petitioner union. It is further stated that the allegations and averments contained in the claim statement are baseless, false and lacking in *bona fides*. The 123 resigned persons were till their resignation under the voluntary retirement scheme were members of INTUC. They were paying membership subscription to the INTUC trade union until the date of their leaving the respondent Mill under the voluntary retirement scheme. None of them is a member of the petitioner union and their subsequent support to the

petitioner union because of its false promises would not make them its members under the provisions of the Trade Unions Act, 1926. There are only 750 employees on the pay roll of the Mill including staff members about 50. It is a well established practice in textile Mills to employ badlis to meet certain contingencies, and badlis are a recognised category in the Industrial Employment (Standing Orders) Act and the Standing Orders certified thereunder. As regards women workers, it is submitted that there has been a long standing and much overdue claim from women organisations that women should be given equal opportunity in employment in service as well as manufacturing sector. The Hon'ble High Court of Madras in its judgment, dated 08-12-2000 has quashed section 66(1) (b) of the Factories Act as ultravires of the Constitution of India and held that women workers could be employed even in the full night shift subject to certain safeguards. Therefore, the question of exploiting women workers as alleged by the petitioner does not at all arise. As a matter of fact, young women are taken by the respondent as apprentices and during the period of apprenticeship training, they were paid stipend as in the case of male apprentices, and in addition, on completion of training period, the women apprentices are each paid ₹ 20,000 as a lumpsum for the benefit of their marriage and future. This apprenticeship training scheme followed in the respondent mill can not be termed as "unfair labour practice". On the other hand this system promotes gender equality and social justice. The respondent had never harassed its workmen as alleged by the petitioner. Admittedly, 123 persons in the present dispute have voluntarily and in their own volition without any persuasion or pressure resigned their job from the respondent Mill under the voluntary retirement scheme because the terms of the voluntary retirement scheme were attractive in terms of monetary benefits. According to the voluntary retirement scheme workers with 15 years service and less in the respondent mill were paid double the gratuity, while workers having more service were paid gratuity as per law and in addition double gratuity for 8 years service. All the concerned persons resigned under voluntary retirement scheme accepted not only the gratuity but also the voluntary retirement scheme benefits and settled their accounts fully and finally by giving valid acquittance. These amounts were paid by account payee cheques, which were encashed by the 123 resigned persons. The 123 persons who resigned under the voluntary retirement scheme and settled all their accounts had also settled their employees provident Fund accumulations standing to their credit in their

respective accounts. Thus the employee-employer relationship between the 123 persons and the respondent has irrevocably ceased and therefore, neither they nor any trade union on their behalf can raise a valid industrial dispute against the respondent under the provisions of the Industrial Disputes Act, 1947. It is too late in the day for the 123 persons to allege now that they had not resigned from service but their services were terminated by the respondent. Section 4 of the Payment of Gratuity Act, 1972 section 4(1) of the Act stated gratuity shall be payable to an employee on the termination of this employment after he has rendered continuous service for not less than five years on his superannuation, on his retirement or resignation, or on his death or disablement due to accident or disease. The case as regards 123 persons involved in the present dispute falls under Cl. (b) of section 4(1) of the Payment of Gratuity Act, 1972. Because, they voluntarily resigned under the voluntary retirement scheme. Having settled their gratuity amount as per the provisions of the Payment of Gratuity Act, 1972, together with their employees provident fund accounts, they cannot turn back and allege that they have not resigned under the voluntary retirement scheme but, their services were terminated illegally by the respondent. If, there was any truth in their allegation they would not have settled their gratuity and employees provident fund account and received amounts along with the benefits offered under the voluntary retirement scheme and encashed the account payee cheques received by them, but, they would have raised an industrial dispute under section 2A of the Industrial Disputes Act or approach their Trade Union, the INTUC in which they were members instead of receiving all the benefits, giving valid receipts. The mere fact that neither they individually raise any dispute under section 2A of the Industrial Disputes Act against the respondent nor their union *viz* the INTUC espoused their cause by raising a dispute under section 2 (k) of the Industrial Disputes Act would conclusively prove that the present dispute had been raised by the petitioner CITU with ulterior motive, *mala fide* intention solely with a view to harass the respondent management. The *mala fide* intention and the ulterior motive of petitioner union would be further confirmed by the contention of the failure report, dated 25-07-2003 submitted by the Labour Officer, Karaikal to the Commissioner of Labour, Pondicherry. In the said report, the Labour Officer has categorically stated that out of 123 petitioners, 37 petitions reveal that they were forced by the respondent to resign from service under voluntary retirement scheme and pleaded for

reinstatement, while the remaining 86 petitioners wanted ₹ 2,00,000 as terminal benefits as per the oral assurance of the respondent. It appears therefore, that the intention of the resigned persons was mainly to extract more money from the respondent under the pretext that they were forced to resign by the respondent management. Thus, the allegation of the petitioner that the voluntary retirement scheme was forced on these 123 persons is utterly baseless and false and contrary to facts and material evidence. The resignation by the 123 persons started from 28-03-1997 and ended as on 02-01-2003. During this long period of early 5 years the INTUC never expressed any reservation or dissent as regards the voluntary retirement scheme. Nor even the CITU raised any dispute during this period. The President of the INTUC branch union put up a notice only on 25-06-2004 on the union notice-board due to certain grudge he harboured against the respondent. The respondent therefore, issued a show cause notice, dated 26-06-2004 to him and he tendered his unqualified apology, dated 27-06-2004 admitting that what he said in the notice was not true and prayed for condonation. Accepting his unqualified apology, he was severely warned for his misconduct by order, dated 01-07-2004 and the matter was treated as closed. In the face of these admitted facts, the allegation of the petitioner that the INTUC was also against the voluntary retirement scheme is absolutely baseless, incorrect and misleading. No employee who resigned under voluntary retirement scheme and accepted all the monetary benefits available under the scheme by giving valid acquittance, can validly and legally repudiate his resignation and seek re-employment, and the employer has no obligation whatsoever either to pay more money or consider reinstatement of any of the resigned workmen. As provided under the certified standing orders and bilateral settlements, some workers might have been transferred from one department to another under certain circumstances and for administrative contingencies. It is well settled law that this kind of administrative contingency or policy would not amount to harassment or unfair labour practice as alleged by the petitioner. Higher Courts have categorically held that it is an inherent condition in the contract of employment that employees are liable for transfer not only from department to department within the same unit but, even to factories outside the State under the same management provided their service conditions and emoluments are not affected. Mr. Evarist serial No.18 in the annexure to the claim statement received ₹ 64,825 towards gratuity and ₹ 43,217 under the

voluntary retirement scheme and after his resignation of his job and settled his account including his employees provident fund account. At the instigation of some outsider he tried to repudiate his resignation, but subsequently, he settled all his accounts by giving valid acquittance severing all his connection with the respondent. In these circumstances, the attempt on the part of the petitioner to cite this solitary matter against the respondent is naive and futile. It is true that a worker, who is discharged, dismissed, retrenched or otherwise terminated can raise an industrial dispute under section 2A of the Industrial Disputes Act, but, a trade union without any membership can not legally raise an industrial dispute under section 2(k) of the Industrial Disputes Act in respect of members of the other trade unions and that too without following the statutory and mandatory provisions of law. The Trade union cannot legally raise an industrial dispute in respect of workmen, who resigned under voluntary retirement scheme, accepted all the monetary benefits under the scheme and settled all their accounts fully and finally by giving valid stamped acquaintance on behalf of non-members solely with a view to harass the employer with ulterior motive with *mala fide* intention as in the present case. M. Prabakaran had resigned his job in the respondent mill not under the voluntary retirement scheme and his resignation was accepted. He raised an individual dispute before the Labour Officer and in the course of conciliation, a settlement was arrived at under section 12(3) of the Industrial Disputes Act. Under the terms of the settlement, the management paid ₹ 25,000 to him and he accepted the amount and settled his accounts. This matter has nothing to do with the present dispute. The amount of ₹ 25,000 is not an additional sum given to M. Prabakaran under the voluntary retirement scheme as alleged by the petitioner. This amount was paid to him in full and final settlement of all his claims and he accepted to receive the same as per clause 2 of the 12(3) settlement. As regards N. Chandrasekaran, he continued in service in the Mill. Hence, allegations of the petitioner in this regard is baseless and misconceived. The permanent workers are paid wages and dearness allowance as per the settlements in force in the respondent mill. While the badlis are paid consolidated wages as per the terms of the bilateral settlement in force, the apprentices are paid stipend in accordance with the terms of the apprenticeship training scheme. Therefore, the question of exploitation or unfair labour practice as alleged by the petitioner does not at all arise. The voluntary retirement scheme is a recognized policy not only in Industry but, also in all other trade

and service sectors, which has been necessitated by the introduction of new mechanism, information technology and computerization and global trade practice to which India is no exception. As regards employment of women, it is in accordance with the national policy accepted by Higher Courts as well as the Central and State Governments. The clock cannot be put back in the changing circumstances of world phenomena as wished by the petitioner CITU Union, which is interested only in class war and not in the economic progress of the nation. The plea of victimization raised repeatedly in the claim statement by the petitioner is absolutely baseless and completely devoid of any merit or substance. Firstly there cannot be any victimization extending benefits to the 123 persons, who voluntarily resigned through voluntary retirement scheme. Secondly it is well settled law that a person who raises the plea of victimization should prove it to the hilt. In the present case, there is not even an iota of evidence to support the allegation of victimization as raised by the petitioner. Hence, this plea of victimization falls to the ground and is liable to be rejected. Therefore, the respondent prayed this Court to dismiss the claim petition.

4. In the course of enquiry on the side of the petitioner PW.1 to PW.6 was examined and Ex. P1 to Ex.P32 were marked and on the side of the respondent RW.1 was examined and Ex. R1 to Ex. R16(series) were marked. Both side arguments were heard. When the case was posted for order it is learnt to this Court that the documents filed on the side of the petitioner Ex.P1 to Ex. P24 as well as the documents filed on the side of the respondent Ex.R1 to Ex.R15 were misplaced by the staff of this Court which could not be traced out even after taking severe steps to secure it and therefore, under office order the disciplinary proceedings was initiated against the concerned staff. Since, the case was pending for more than 15 years and the same was originally taken on file by the District Court at Karaikal which was being functioned as Labour Court in industrial dispute No. 03/2004 and subsequently, when this Industrial Tribunal-cum-Labour Court was established in the year on 11-08-2012, the case has been transferred to this Court and the case was renumbered as industrial dispute (L). No. 36/2012 and that as there was a direction to dispose all the five year old cases within 31st March, 2018 after giving due notice to both the parties and on their endorsement that they have no objection to reconstruct the documents, some of the documents have been reconstructed on consent of both the parties. However, the documents

Ex. P10, Ex. P14, Ex. P16, Ex. P24 and Ex. R6 could not be reconstructed since both the parties have not produce the copy of the said documents and both the parties have endorsed that they have no objection to pronounce the final order without reconstructing the said documents and therefore, further arguments were heard.

5. The point for consideration is:

Whether the dispute raised by the petitioner union against the respondent management over termination of 123 workers is justified or not and if justified, what is the relief entitled to them.

6. On the point:

The pleadings of the parties, the evidence let in by both sides and the exhibits marked on either side are carefully considered. On both sides written arguments were filed and the same were also carefully considered. It is the case of the petitioner union that the 123 workers for whom the industrial dispute was raised are the members of the petitioner union which is the registered union and majority of the workers of the respondent mill are the members of the petitioner union and that the respondent management has 1100 workers of which only 300 were permanent and others are apprentices and badlis and the permanent workers were paid ₹ 5,000 to ₹ 6,000 per month and others were paid only ₹ 1,200 per month on daily wage basis and that the respondent management between the period 1997-2002 harassed the workers to accept the compensation and go out and they had been told if the workers do not resign and take the voluntary retirement service amount and go out they would be sent out in other way and that therefore, reference mentioned 123 workers were get rid off by getting forced letters of resignation and they have been given voluntary retirement out of which 90 workers are permanent and 33 are badli workers and the management had not made any badli worker permanent as stated during the period 2001-2002 and made 20 badli workers are permanent during the year 2003 and the management has compelling the workers to resign or go under voluntary retirement scheme and the workers have been really forced by the management and that without any settlement with the union the respondent management has forcibly got the resignation letters from the employees and they have been settled different amounts depending upon the whims and caprice of the management and all the above 123 workers have been terminated from service and that there was huge public meeting on 26-03-2003 questioning this mass forced termination of the respondent

establishment and that therefore, the petitioner union has raised the industrial dispute before the Labour Conciliation Officer which was failed and subsequently the matter has been referred to this Court by the Government to adjudicate the same.

7. In order to prove their case the petitioner union has examined PW.1 to PW.6. PW.1 has reiterated all the averments in the claim statement in his evidence. The other witnesses PW.2 to PW.6 in their evidence have stated that they were the workers of the respondent establishment and also on whose behalf the industrial dispute was raised by the petitioner union and all of them have stated all the facts which are stated in the claim petition and their main evidence is that the respondent management has forcibly obtained resignation letter from them by giving pressure and by creating several troubles and it is further evidence that the signatures have been obtained by the management only by coercion and that the workers have not been given one month notice for their removal and the respondent management has only to retrench the male workers and to appoint female workers has given several troubles to the workers and thereby they have forced the workers to give resignation.

8. In support of their case the petitioner union has exhibited Ex.P1 to Ex.P32. Ex.P1 is the copy of the letter sent by the petitioner union to the Labour Officer (Conciliation). Ex.P2 is the copy of the letter sent by the respondent to the Labour Department. Ex.P3 is the copy of the letter sent by the respondent to the Labour Department. Ex.P4 is the copy of the letter sent by PW.1 Ramar, Secretary CITU to the Labour Officer (Conciliation). Ex.P5 is the copy of the standing order of the respondent mill. Ex.P6 is the copy of the notice of the union. Ex.P7 is the copy of the agreement entered between one Sumathi and the respondent management. Ex.P8 is the copy of the notice of the union regarding meeting. Ex.P9 is the copy of the registration certificate. Ex.P11 is the copy of the letter given by the Pudukkottai Mill Thozhilalar Sangam to the petitioner union. Ex.P12 is the Pudukkottai Mill Thozhilalar Sangam member's list. Ex.P13 is the copy of the letter given by the petitioner union to the Labour Department. Ex.P15 is the copy of the meeting proceedings. Ex.P17 is the copy of the reply given by the respondent before the Labour Officer (Conciliation). Ex.P18 is the copy of conciliation failure report. Ex.P19 is the copy of Government reference. Ex.P20 is the copy of the notice given by the Labour Officer. Ex. P21 is the copy of the order passed in A.S. No.13/2005. Ex.P22(series) are the authorization given by the

petitioners. Ex.P23(series) are the petitioners membership forms. Ex.P25 is the copy of the form submitted before the Labour Department. Ex. P26 is the copy of the dispute raised by 123 resigned workers of the Mill. Ex. P27 is the copy of the order passed in W.P. No. 15958 of 2003. Ex. P28 is the copy of the 12(3) settlement. Ex. P29 is the copy of complaint filed by one Yacob and FIR. Ex. P30 is the copy of the order of the Mill. Ex. P31 is the copy of the attendance register. Ex. P32 is the copy of the enquiry notice. These documents would go to show that the reference mentioned 123 workers of the respondent establishment have joined in the petitioner union in the month February 2003 and the applications to join as members in the petitioner union are given by the said 123 workers for the period from 05-02-2003 to 10-02-2003 and they have also given letter to the Secretary of the petitioner union to raise the industrial dispute on the same day when they applied for membership and thereafter, the union has raised the industrial dispute before the Conciliation Officer on behalf of the said 123 employees and that there was a meeting of members of the petitioner union and conciliation proceedings were taken place which was failed and conciliation failure report was submitted by the Conciliation Officer on 25-07-2003 and thereafter, the Government has referred the matter to this Court for adjudication of the said dispute.

9. On the other hand, it is the main contention of the respondent management that the reference mentioned 123 workers have been resigned their job under voluntary retirement scheme and they have given resignation letters and voluntary retirement scheme was announced by the respondent management in between March 1997 to June, 2000 and the said 123 workers were given voluntary retirement and they have obtained all the service benefits along with the gratuity and other legal benefits and at the relevant point of time when the voluntary retirement scheme was implemented INTUC and LPF unions are alone recognized trade unions and the petitioner CITU union has no membership among the workmen of the respondent mill and all the 123 workers were the members of the INTUC union and all of them have resigned under voluntary retirement scheme and all the amounts were settled and that gratuity and voluntary retirement scheme benefits and *ex gratia* were paid to them and none of them were the members of the CITU union and they never paid membership subscription and that therefore, the petitioner union has no *locus standi* to raise this industrial dispute and further, no general body meeting

of the union with these so called members were attending the meetings and passed any resolution authorizing the General Secretary to raise the present dispute.

10. Further, it is the another contention of the respondent management that when the said workers accepted the voluntary retirement scheme benefits after their resignation and received all the benefits from the employer then they cannot raise any industrial dispute alleging that their services were terminated by the employer against their wishes and all the 123 workers mentioned in the claim petition have resigned their employment under voluntary retirement scheme were the members of INTUC union and they were paying membership subscription to the INTUC union until they were leaving the respondent management under the voluntary retirement scheme and none of them are the members of the petitioner union and only on the false promise of the union that they would obtain reinstatement and further substantial amount from the respondent establishment now, they have been supporting the case of the petitioner union and the said 123 workers have received the gratuity benefits as they have resigned under voluntary retirement scheme and all the gratuity amount also have been settled under the provisions of payment of gratuity Act which could be paid only on the termination of the employees who have completed the service not less than 5 years and accepting the same when they received the gratuity whenever resigned the employment from the respondent establishment and that there is no victimization as stated by the petitioner union. To establish their case the respondent management has examined RW.1 and RW.1 has reiterated all the averments in the counter statement in his evidence.

11. In support of their contention, the respondent management has exhibited Ex.R1 to Ex.R16(series). Ex.R1 is the copy of the letter given by PW.2 Arunachalam to the respondent. Ex.R2 is the copy of the letter given by the respondent to PW.2 Arunachalam. Ex.R3 is the signature of PW.2 Arunachalam in Form-I. Ex.R4 is the signature of PW.2 Arunachalam for receipt of cash. Ex.R5 is the copy of P.F settlement form-19 given by PW.2 Arunachalam. Ex.R7 is the copy of the letter given by the respondent before the Labour Department. Ex.R8 is the signature of PW.4 Nageshwara Roa in resignation letter. Ex.R9 is the signature of PW.4 Nageshwara Roa in the resignation acceptance letter. Ex.R10 is the signature of PW4 Nageshwara Roa in Form-I. Ex. R11 is the copy of three stamp receipts given to PW.4 Nageshwara Roa. Ex.R12

is the copy of form-19 given by PW.4 Nageshwara Roa. Ex.R13 is the copy of letter given by PW.6 Pakkirisamy to the respondent management. Ex.R14 is the copy of letter given by respondent management to PW.6 Pakkirisamy. Ex.R15 is the copy of P.F. settlement form-19 given by PW.6 Pakkirisamy. Ex.R16 (series) are the resignation letters given by the petitioners.

12. From the pleadings of both the parties, the evidence let in by either side and the documents exhibited by either side it is learnt to this Court that the following facts are admitted by either sides that the reference mentioned 123 workers were in service at the respondent establishment and they have received the service benefits from the respondent establishment and their employment has come to an end after getting the benefits and these 123 workers originally in INTUC union when they have received the benefits from the respondent Mill and subsequently, they have given application to the petitioner union in the year 2003 to join them as members of the petitioner union and on the same day they have executed the letters authorizing the union to raise the industrial dispute against the termination of their employment on the foot of the alleged resignation obtained on coercion and thereafter, the industrial dispute was raised by the petitioner CITU union and conciliation proceedings were taken place and even after several negotiation the conciliation was failed and the Conciliation Officer has submitted the failure report to the Government and thereafter, the matter was referred to this Court for adjudication regarding the industrial dispute raised by the petitioners.

13. It is the only contention of the petitioner union that all the alleged resignation letters were obtained by the respondent management only on coercion and the 123 workers have not actually given consent for voluntary retirement and they have not voluntarily resigned from their service. On the other hand, it is contended by the respondent management that these 123 workers have given resignation under voluntary retirement scheme without any coercion that so, why the 123 workers have sent resignation letters to the respondent management which were accepted by the management and benefits were given under the cheque and all the cheque amount have been collected by 123 employees. Even as per the case of the petitioner union these 123 workers have submitted their resignation on threat of the respondent management by giving so much troubles to the workers and the workers have been compelled to give resignation to left the company after getting benefits of the voluntary retirement scheme and

therefore, it is to be decided by this Court that whether 123 workers have voluntarily given resignation and whether they have voluntarily received the benefits of the service. It is not disputed by the petitioner union that reference mentioned 123 workers have not given resignation to the respondent management and they have not received any benefits from the respondent establishment and left the service and therefore, the only matter to be decided by this Court that whether the signature in the resignation was obtained by the management by threat or by coercion.

14. On perusal of Ex.R16 series the resignation letters given by the 123 workers under voluntary retirement scheme, it is clear that all the workers have given resignation and the same were accepted by the management and thereafter, the management has also given benefits according to their service after getting the receipt for the same and further, it is learnt from the said Ex.R16 series that workers have given application form to get the PF settlement amount and the same was settled by the provident fund department after accepting the fact that 123 workers have resigned their job from the respondent establishment and their services were terminated. Ex.R16 series further, would reveal the fact that resignation letters of the workers were given in between the period from 1998 to 2002 and further, it reveals the fact that some of the employees were given resignation in the year 1998 and some of them were given resignation in the year 1999 and some were given resignation in the year 2000 and some of them have resigned their job in the year 2001 and some of the employees were resigned in the year 2002 and benefits were given to them then and there that is immediately after their resignation and their resignations were accepted by the respondent management and amount was paid according to their service. These resignation letters and voluntary retirement scheme were being taken place for the period of 5 years that is in between 1998 to 2002 and this would go to show that some of the workers have retired from service in the year 1998 and they have not raised any industrial dispute till 2003 and some of the workers have retired from service in the year 1999 and they have also not raised any industrial dispute till 2003 and some of them have left their service in the year 2000 to 2002 and they have also not raised any industrial dispute and that the said workers have not made any complaint or submitted any application before the Labour Officer or Police that their signature were obtained by the respondent management on threat or coercion and all of them have received all the benefits

and provident fund amount. It is the evidence of the RW.1 that the benefits were given only under cheque to 123 workers and the same is not denied by the petitioner union and it is pertinent to note that these 123 workers have come with this dispute in the month of February 2003 when they have joined in the petitioner union and raised the industrial dispute that the respondent management has obtained their signature on coercion and on threatening after five years from resignation. These facts alone shows that the petitioner union has voluntarily raised the industrial dispute stating that these 123 workers have been removed from service by obtaining their signature on coercion while none of the employees have made any complaint or even submitted any application to the Labour Officer or any other department that they have been threatened or coerced to get the resignation letters.

15. Furthermore, the documents exhibited under Ex.P22 would go to show that all the 123 workers have joined in the petitioner union only in the month of February 2003 and the documents under Ex. P23 would go to show that at the same time they have given letters to the union to raise the industrial dispute for reinstatement since, their resignations were given by them on compulsion of the respondent management and these documents would go to show that only with the intention to raise the industrial dispute the said workers have joined in the petitioner union in the month of February 2003 in which the industrial dispute has been raised by the union against the respondent establishment. These facts of giving application to the petitioner union after five years of their resignation and 5 years after getting employment benefits from the respondent establishment through the cheque by putting the same in collection would go to show that only with the intention to raise the industrial dispute for reinstatement it has been stated by the workers as well as the petitioner union that the resignations were obtained by the respondent management on coercion. If, the resignation letters were obtained by the respondent management on coercion or threat the workers ought to have made complaint to the Police or to the Labour Officer at the time of threat and further, the 123 workers have not stated that why they have not made any complaint or why they have not raised this contention at the point of time or at the earliest opportunities that is immediately after their resignation alleged to have been obtained by the management in between 1998 to December 2002.

16. Furthermore, the respondent management by exhibiting the resignation letters, the documents for the settlement and PF application given by the employees to get the provident fund amount has proved

the *prima facie* that these workers have been terminated from the Mill under voluntary retirement scheme. While so, the burden is on the petitioners that these resignation letters were obtained by the respondent management on coercion and on compulsion. It is not established by the petitioner union that why these 123 workers have not raised nay complaint or dispute till four years that is from the date of resignation in the year 1998, 1999 and 2000 and that therefore, the petitioner union has failed to establish to prove their contention that the resignations were obtained by the respondent management only by means of threatening and on the compulsion of the respondent management and that therefore, the petitioner union has failed to establish their case that these 123 workers have terminated from service without their willingness and the respondent management has obtained their signatures by deceitful means by coercion or under threatening and that therefore, the entire case of the petitioner union fails and it cannot be accepted and hence, it is decided that the termination of 123 employees by the respondent management is justified and that therefore, it is to be held that the industrial dispute raised by the petitioner union against the respondent management over termination of 123 employees is not justified and as such the petition is liable to be dismissed.

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

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 2nd day of April, 2018.

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

List of petitioner's witnesses:

- PW.1 — 09-10-2009 — N. Ramar
- PW.2 — 01-07-2011 — Arunachalam
- PW.3 — 26-09-2011 — Amirthagadesan
- PW.4 — 11-04-2012 — Nageshwara Rao
- PW.5 — 12-12-2012 — Amirthalingam
- PW.6 — 29-08-2013 — Pakkirisamy

List of petitioner's exhibits:

- Ex.P1 — 18-03-2003 — Copy of the letter sent by the petitioner union to the Labour Officer (Conciliation).

Ex.P2 — 25-03-2003 — Copy of the letter sent by the respondent to the Labour Department.	Ex.P17— 04-06-2003 — Copy of the reply given by the respondent management before the Labour Officer (Conciliation).
Ex.P3 — 04-07-2003 — Copy of the letter sent by the respondent to the Labour Department.	Ex.P18— 25-07-2003 — Copy of conciliation failure report.
Ex.P4 — 07-07-2003 — Copy of the letter sent by PW.1 Ramar, Secretary CITU to the Labour Officer (Conciliation).	Ex.P19— 03-02-2004 — Copy of Government reference.
Ex.P5 — 01-09-1996 — Copy of the standing order of the respondent mill.	Ex.P20— 26-08-2003 — Copy of the notification by Labour Officer.
Ex.P6 — 25-06-2004 — Copy of the notice of the union.	Ex.P21— 23-02-2006 — Copy of the order passed in A.S. No.13/2005.
Ex.P7 — 01-01-2001 — Copy of the agreement entered between one Sumathi and the respondent management.	Ex.P22—Series — Authorization given by the reference mentioned workers to raise the dispute.
Ex.P8 — 23-01-2003 — Copy of the notice of the union regarding meeting.	Ex.P23—Series — Reference mentioned workers Membership Forms.
Ex.P9 — 13-10-1972 — Copy of the registration certificate.	Ex.P24—Series — Subscription amount paid books of the petitioners.
Ex.P10— 08-11-2002 — Copy of the resolution to passed to by the union. 12-11-2003	Ex.P25—29-09-2006 — Copy of the Form-E submitted before the Labour Department.
Ex.P11— 01-01-2003 — Copy of the letter given by the Pudukkottai Mill Thozhilalar Sangam to the petitioner union.	Ex.P26— Copy of the dispute raised by 123 resigned workers of the mill.
Ex.P12— 2003 — Pudukkottai Mill Thozhilalar Sangam member's list.	Ex.P27—13-08-2003 — Copy of the order passed in W.P.No.15958 of 2003.
Ex.P13—10-01-2003 — Copy of the letter given by the petitioner union to the Labour Department.	Ex.P28—26-08-2008 — Copy of the 12(3) settlement.
Ex.P14— 06-03-2003— Copy of the minutes of the meeting.	Ex.P29—26-08-2010 — Copy of complaint filed by one Yacob and FIR.
Ex.P15— 15-03-2003 — Copy of the meeting proceedings.	Ex.P30—30-06-1988 — Copy of the order of the Mill.
Ex.P16— 18-03-2003 — Copy of the petition filed by the union.	Ex.P31— Copy of the attendance register.
	Ex.P32— 21-04-2000 — Copy of the enquiry notice.
	<i>List of respondent's witness:</i>
	RW.1 — 17-11-2017 — Adinarayanasamy.
	<i>List of respondent's exhibits:</i>
	Ex.R1 — 08-07-2002— Copy of the letter given by PW.2 Arunachalam to the respondent.

Ex.R2 — 08-07-2002—	Copy of the letter given by the respondent to PW.2 Arunachalam.	Ex.R10—	Signature of PW.4 Nageshwara Roa in Form-I.
Ex.R3 —	Signature of PW.2 Arunachalam in Form-I.	Ex.R11—	Copy of three stamp receipts given to PW.4 Nageshwara Roa.
Ex.R4 —	Signature of PW.2 Arunachalam for receipt of cash.	Ex.R12— 20-06-2000—	Copy of Form-19 given by PW.4 Nageshwara Roa.
Ex.R5 —	Copy of provident fund settlement Form-19 given PW.2 Arunachalam.	Ex.R13—25-03-2002 —	Copy of letter given by PW.6 Pakkirisamy to the respondent management.
Ex.R6 —	Copy of voluntary retirement scheme by Vice - President (Technical).	Ex.R14—25-03-2002 —	Copy of letter given by respondent management to PW.6 Pakkirisamy.
Ex.R7 —	Copy of the letter given by the respondent before the Labour Department.	Ex.R15—	Copy of provident fund settlement Form-19 given by PW.6 Pakkirisamy.
Ex.R8 —	Signature of PW.4 Nageshwara Roa in resignation letter.	Ex.R16— (series)	Copy of the resignation letters given by the petitioners.
Ex.R9 — 24-04-2000—	Signature of PW.4 Nageshwara Roa in the resignation acceptance letter.		

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

புதுச்சேரி அரசு

மாவட்ட சார்பு ஆட்சியர் (வருவாய்) அலுவலகம், காரைக்கால்

எண் 2040, 4823/மாசா ஆ/195/காறை/195/2018.

அறிவிப்பு

[புதுச்சேரி நில மானிய விதி 1975, 60(iii)-ன் கீழ்]

புதுச்சேரி அரசால் தங்களுக்கு ஒப்படைசெய்யப்பட்ட கீழ்க்காணும் நிலவிவரங்களுடைய இடத்தில் தாங்கள் வீடு கட்டாமலோ அல்லது குடியிருக்காமலோ இருப்பதன் மூலம் தங்களுக்கு வழங்கப்பட்ட நில ஒப்படை ஆணையில் காணப்படும் நிபந்தனை (2)ஐ தாங்கள் கடைபிடிக்காததை அறியவும்.

வரிசை எண்	ஒப்படை பெற்றவரின் பெயர் மற்றும் முகவரி	நகர/மறு அளவை எண்	நிலத்தின் பரப்பளவு	நில ஒப்படை ஆணை எண்
(1)	(2)	(3)	(4)	(5)
			H. A. Ca.	
எண் 27-தர்மபுரம் வருவாய் கிராமம்				
1	திருமதி அமீனா உம்மாள், க/பெ. முஹம்மது இப்ராஹிம்.	E/10/5/187	0 00 69	229/2003-04
2	சகுந்தலா, க/பெ. பெரியசாமி.	E/10/5/186	0 00 69	228/2003-04