



புதுச்சேரி மாநில அரசிதழ்

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 128/AIL/Lab./T/2019,
Puducherry, dated 6th December 2019)

NOTIFICATION

Whereas, an Award in I.D (L) No. 15/2018, dated 28-8-2019 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. Jothi Chlorate Limited, Karaikal and Thiru M. Srinivasan, Karaikal, over reinstatement 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
AT PUDUCHERRY**

Present : Thiru V. PANDIARAJ, B.SC., L.L.M.,
Presiding Officer,

Wednesday, the 28th day of August, 2019

I.D. (L) No. 15/2018

M. Srinivasan,
S/o. Mohan,
No. 7, Odhi Chetty Street,
T.R. Pattinam,
Karaikal.

.. Petitioner

Versus

The Manager,
M/s. Jothi Chlorate Limited,
R.S. No. 56/3, Polagam Village,
T.R. Pattinam,
Karaikal.

.. Respondent.

This industrial dispute coming on 22-08-2019 before me for final hearing in the presence of Thiru N. Ramar, representative 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:

A W A R D

1. This Industrial Dispute has been referred by the Government as per the G.O. Rt. No. 30/AIL/Lab./T/2018, dated 06-03-2018 for adjudicating the following:-

(a) Whether the dispute raised by the petitioner Thiru M. Srinivasan, Karaikal, against the management of M/s. Jothi Chlorate Limited, Karaikal, over reinstatement with back wages are justifiable or not? If justified, what is the relief entitled to?

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

2. The notice for the respondent has been duly served to the respondent, even then this respondent has not appeared before this Court and hence, he was set *ex parte* on 08-05-2018 itself.

3. In the course of enquiry, the petitioner by name Srinivasan was examined in *ex parte* as PW.1 on 01-02-2019 and Ex.P1 to Ex.P12 were marked.

4. *The point for determination is :*

(a) Whether the dispute raised by the petitioner Thiru M. Srinivasan against the management of M/s. Jothi Chlorate Limited, Karaikal, over reinstatement with back wages are justifiable or not? If justified, what is the relief entitled to?

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

5. Heard the petitioner side and the records were perused. It is the case of the petitioner that he joined as Lab Chemist in the respondent company on 01-08-2008, with monthly salary of ₹ 12,000 and the respondent company has paid a sum of ₹ 4,200 through Bank and the remaining amount was paid in cash directly to the petitioner and the respondent company failed to comply the benefits under the provisions of Labour Act to its workers and it has failed to give Restricted Holidays, National Holidays, Weekly Holidays, casual leave, earned leave to its employees. Further, it has been stated that the respondent company failed to get the subscription amount from its employees under the Scheme of PF and ESI. The company has not provided the abovesaid benefits, even though, it was requested by this petitioner. Further, it has deducted one and half day salary from its employees to those who has availed more than 3 days leave. In the meanwhile, this petitioner has availed ESI leave from 17-09-2016 to 30-09-2016. The respondent company has failed to sign the ESI leave application and refused to give sanction to get the benefits under ESI leave Scheme. Therefore, this petitioner met the office bearers of the respondent company and he was threatened by the company officials

and thereby it has directed this petitioner that 'he should not to come to the company'. Therefore, this petitioner has raised the Industrial Dispute before the Conciliation Officer on 13-02-2017. Further, it is stated that the respondent company has filed a false reply, stating that this petitioner was irregular in service and not coordinate with the company and thereby causing loss to the respondent company. It was also replied by the company that this petitioner has availed a hand loan of ₹ 1,00,000 from the company for his marriage proposals. This petitioner has made suitable reply for the abovesaid contentions also. The respondent company has obtained the signature from this petitions during the year 2013 to provide the benefits of the ESI and PF benefits. Even though, those benefits were not given to this petitioner by the company, this respondent company has conveniently used the abovesaid signature to create a forged document as if, this petitioner has availed a hand loan of ₹ 1,00,000 from the company. The Conciliation Officer has conducted several rounds of Conciliation. Finally, it has filed its negative report. Since, the respondent company has adopted unfair labour practices and it was brought to the knowledge of the Conciliation Officer, the respondent company has removed this petitioner from service. This petitioner has not stopped his service from the company on his own volition and he was removed from his service from the respondent company without following the procedure enumerated in the labour legislation. This petitioner is facing much hardship due to non-employment for the past 2 years and hence, the prayers made in the claim statement has to be awarded in favour of this petitioner.

6. This petitioner has deposed as PW.1 Ex.P1 is the certificate issued by this respondent. It shows that the petitioner was appointed on 01-08-2008. Ex.P2 shows that he has worked in respondent company as Lab Chemist. Ex.P3 shows that his name was entered in ESI Corporation as an employee of the respondent company and he has availed the ESI leave from 17-09-2016 to 30-09-2016. Ex.P5 shows that this petitioner has raised the industrial dispute against the respondent company for its unfair Labour Practices before the Conciliation Officer on 13-02-2017. As per the reply filed by the respondent company before the Conciliation Officer, this petitioner has joined duty during the year 2013, whereas, no documents was produced before the Conciliation Officer in this aspect. But, the petitioner has filed Ex.P1, which shows that he was appointed on 01-08-2008 itself. Therefore, the plea of this petitioner that he was an employee from 01-08-2008 stands proved. At the same time, the plea raised by the respondent company before the Conciliation Officer stands failed. This petitioner has deposed that the document, dated 27-09-2017 was a fabricated one. The abovesaid document was marked as Ex.P11 in this case. As per the plea taken by the respondent company before

the Conciliation Officer, this petitioner was appointed in the year 2013. If, it is true, definitely it may not provide the hand loan of ₹1,00,000 during the year 2014, *i.e.*, within a short span of one year it may not offer such a hand loan. Therefore, the plea taken by the respondent company before the Conciliation Officer, that this petitioner has taken the hand loan of ₹ 1,00,000 was also found to be baseless. Further, the respondent company has not given its sanction to this petitioner, to get his benefit under the provision of ESI Act, for the leave period from 17-09-2016 to 30-09-2016. Further, this petitioner was terminated from service during the pendency of conciliation proceedings. Thus, this petitioner has produced oral and documentary evidences to prove the plea taken in this petition. Whereas, the respondent company has not come forward to conduct this case, even after the service of the notice. From and out of the unchallenged oral evidence of PW1 and the documents, this Court found that the respondent company has adopted the unfair labour practices against this petitioner/worker and violated the provisions of the labour legislation, over his non-employment and hence, this Court held that this petitioner is entitled for reinstatement with back wages and all other benefits as claimed by him.

7. In the result, this petition is allowed and it is held that the respondent/management has adopted the unfair labour practices against this petitioner by violating the provisions of labour legislation, Industrial Disputes Act, over the illegal termination of this petitioner is justified and an Award is passed directing the respondent to reinstate this petitioner in its company within one month from the date of this order with full back wages, continuity of service and all other monetary benefits to which this petitioner is entitled.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the Open Court on this the 28th day of August, 2019.

V. PANDIARAJ ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witness:

PW.1 — 01-02-2019 Srinivasan

List of petitioner's exhibits:

Ex.P1 — 11-01-2009 Experience Certificate given by the respondent management to the petitioner.

Ex.P2 — Copy of Indian Overseas Bank Statement.

- Ex.P3 — Copy of ESI medical records from 17-09-2016 to 30-09-2016.
- Ex.P4 — 24-08-2017 Copy of Puducherry Gazette Publication.
- Ex.P5 — 13-02-2017 Copy of requisition submitted before the Labour Department, Puducherry by the petitioner to reinstate him.
- Ex.P6 — 10-08-2017 Copy of Conciliation report issued by the labour Officer (Conciliation), Puducherry.
- Ex.P7 — 31-08-2017 Copy of letter submitted by the petitioner to the Labour Department, Puducherry.
- Ex.P8 — 02-11-2017 Copy of letter submitted by the petitioner to the Labour Department, Puducherry.
- Ex.P9 — 08-12-2017 Copy of letter submitted by the respondent management to the Labour Department, Puducherry.
- Ex.P10 — 11-11-2014 Copy of failure report submitted by the Labour Officer (Conciliation), Puducherry to Government of Puducherry.
- Ex.P11 — 27-09-2017 Copy of forged document created by the respondent management for sum of ₹ 1,00,000 obtained by the petitioner from respondent management.
- Ex.P12 — 16-11-2015 Copy of notification issued by the Government of Puducherry to refer the industrial dispute to Labour Court, Puducherry for adjudication.

List of respondent's witnesses: Nil

List of respondent's exhibits: Nil

V. PANDIARAJ ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 129/AIL/Lab./T/2019,
Puducherry, dated 6th December 2019)

NOTIFICATION

Whereas, an Award in I.D (T) No. 7/2018, dated 29-10-2019 of the Industrial Tribunal, Puducherry, in respect of the industrial dispute between the management of M/s. Larsen and Toubro Private Limited, Sedarapet, Puducherry and Larsen and Toubro Thozhilalar Sangam, Puducherry, has been received;

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

(By order)

S. MOUTTOULINGAM,
Under Secretary to Government
(Labour).

BEFORE THE INDUSTRIAL TRIBUNAL
AT PUDUCHERRY

Present : Thiru V. PANDIARAJ, B.SC., L.L.M.,
Presiding Officer ,

Tuesday, the 29th day of October, 2019

I.D. (T) No. 07/2018

The Secretary,
Larsen and Toubro Thozilalar Sangam,
No. 14, Kurinji Nagar,
Kamarajar Nagar,
Gorimedu, Puducherry. . . Petitioner

Versus

The Managing Director,
M/s. Larsen and Toubro Private Limited,
Sedarapet, Puducherry. . . Respondent

This industrial dispute coming on 30-09-2019 before me for final hearing in the presence of Thiru Durai Arumugam, representative 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 has been referred by the Government as per the G.O. Rt. No. 23/AIL/Lab./T/2018, dated 15-02-2018 for adjudicating the following:-

(a) Whether the dispute raised by the petitioner union Larsen and Toubro Employees Union, Puducherry against the management of M/s. Larsen and Toubro Private Limited, situated at ECC Division, Mylam Road, Sedarapet, Puducherry, over the transfer of Thiru N. Thandapani, Technical/Commercial Supervisor from Puducherry to Raipur are justifiable or not? If justified, what is the relief entitled to?

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

2. The notice for the respondent has been duly served to the respondent, even then this respondent has not appeared before this Court and hence, he was set *ex parte* on 13-06-2018 itself.

3. *Brief of the petition:*

The respondent establishment is functioning at Sedarapet Industrial Estate at Puducherry for the past 30 years and it is having more than 72 permanent employees in its factory in TLT section. The petitioner trade union has filed a charter of demands before the Conciliation Officer on 02-12-2011. During the pendency of abovesaid charter of demands before the Conciliation Officer the respondent has threatened the office bearers of the trade union to prevent their effective functioning for the welfare of the employees. In these circumstances, the respondent management has transferred the workman/office bearer of the trade union by name Mr. Thandapani on 04-01-2012 and he was directed to attend duty in the factory at Raipur in the State of Chattisgarh. It is a total violation of provision under 33 (1) (a), 33 (2) (a), 33 (3) (a) of the Industrial Disputes Act. The abovesaid Thandapani was transferred due to vengeance by the management. Further, the petitioner trade union has also raised an industrial dispute before the Conciliation Officer on 19-01-2012 regarding the denial of OTLS. (One time lumpsum grant) and regarding the transfer of Mr. Thandapani. In order to help the abovesaid process the Conciliation Officer also conducted the proceedings of conciliation in a delayed manner. The petitioner trade union has approached the Hon'ble High Court regarding the transfer of Mr. Thandapani and finally, it has observed that the petitioner trade union has to approach the Industrial Tribunal for its grievance. The respondent management has transferred Mr. Thandapani unnecessarily and

against the standing order, though there exists shortage of labours at Puducherry Factory. Hence, this petition has been filed against the respondent management with a prayer to cancel the transfer order and to place him in the original place at Sedarapet Factory with subsequent monetary benefit.

4. In the course of enquiry, the Secretary of the trade union by name Kolanjinathan was examined in *ex parte* as PW1 on 10-04-2019 and Ex. P1 to Ex. P10 were marked. Thereafter, he was again recalled and re-examined on 20-09-2019 and Ex. P11 and Ex. P12 were also marked on the date.

5. *The point for determination is :*

(a) Whether the dispute raised by the petitioner trade union against the management of M/s. Larsen and Toubro Private Limited, situated at ECC Division, Mylam Road Sedarapet, Puducherry, over, the transfer of Thiru N. Thandapani, Technical/Commercial Supervisor from Puducherry to Raipur is justifiable or not? and if justified, what is the relief entitled to?

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

6. The Trade Union Secretary by name, Kolanjinathan examined himself as PW.1, wherein, he has deposed that Mr. Thandapani was an active member of the Trade Union and he was executive member of the Trade Union and he has been transferred to Raipur from Puducherry as a measure of victimization by the management and it was done during pendency of the Industrial Dispute with respect to the charter of demands, dated 02-12-2011. He has further, deposed that the act of the respondent management is nothing but, a pure victimization act in order to prevent the active participation of the abovesaid Thandapani in trade union activities. The petitioner has produced the Ex. P2 to show that there was a charter of demands filed by the trade union on 02-12-2011 before the Conciliation Officer, based on which an Industrial Dispute was raised. The abovesaid charter of demands was kept pending by the Conciliation Officer from 02-12-2011. The abovesaid Thandapani was transferred on 04-01-2012 as per Ex. P4. The exhibits P2 and P4 would go to shows that during the pendency of conciliation proceedings, the workman/office bearer of the trade union by name, Mr. Thandapani was transferred against the provision under section 33 (1) (a) of the Industrial Disputes Act. As per section 33 (1) (a) of the Industrial Disputes Act, no employee shall be transferred during the pendency of proceeding before Conciliation Officer, Industrial Tribunal and National Tribunal.

Further, as per section 33 (3) (a) of the Industrial Disputes Act, the protected workman cannot be transferred without prior permission of the respective authorities. Here, in this case, also while the proceedings regarding the charter of demands were pending before the Conciliation Officer from 02-12-2011, the workman/office bearer, by name, Thandapani the protected workman has been transferred on 04-01-2012. Therefore, it becomes clear violation of section 33 (3) (a) of the Industrial Disputes Act by the management. Further, he has been transferred as per Ex. P5. On perusal of Ex. P5 it was found that no reasons was adduced for his transfer. Furthermore, there was nothing mentioned under which standing order he has been transferred to the Factory at Raipur in Chattis. Hence, this Court found that the transfer order was not on any genuine reason or on the basis of any valid standing order of the management. Hence, the prayer for cancellation of the transfer order and to place him in the original position at Puducherry factory, and seeking the monetary benefits from the date of transfer becomes justifiable one. The respondent has not come forward to justify his action of transfer. Further, it has not come forward to deny the allegations levelled against the management and it has not come forward to rebut the allegations levelled against the management. The unchallenged version of the petitioner was also supported by the documentary evidences such as Ex.P2, Ex. P4 and Ex. P5. Hence, considering the unchallenged oral evidence of PW1 supported by the Ex. P2, Ex. P4 and Ex. P5 this Court come to the conclusion that the transfer order to the abovesaid Thandapani was not a justifiable one and the prayer made by the petitioner trade union against the respondent management found to be justifiable one. Therefore, the industrial dispute raised by this petitioner trade union is found justifiable and it is ordered that the workman by name Thandapani was entitled for all the monetary benefits from the date of his transfer order and he was entitled to be placed in his original position as Technical/Commercial Supervisor at Sedarapet Factory in Puducherry from the date of this order.

7. In the result, this petition is allowed. No cost.

Dictated to Stenographer, transcribe by him, corrected and pronounced by me in the open Court on this the 29th day of October, 2019.

V. PANDIARAJ ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witness:

PW.1 — 10-04-2019 Kolanjinathan

List of petitioner's exhibits:

Ex.P1	— 01-03-2010	Copy of the certificate of Registration of Trade Union.
Ex.P2	— 02-12-2011	Copy of the charter of demand with copy of L Form.
Ex.P3	— 19-01-2012	Copy of the petition filed before the Conciliation Officer regarding the transfer of Mr. Dhandapani.
Ex.P4	— 19-01-2012	Copy of the letter submitted to the Conciliation Officer regarding OTLS.
Ex.P5	— 04-01-2012	Copy of the transfer order of the Mr. Dhandapani.
Ex.P6	— 20-10-2016	Copy of the order in W.A. No. 1189/12.
Ex.P7	— 28-02-2012	Copy of the order in W.P. No. 4611/12.
Ex.P8	— 09-02-2017	Copy of letter submitted by the petitioner union to the Conciliation Officer regarding Transfer of Mr. Dhandapani.
Ex.P9	—	Copy of the shift schedule in TLT - fabrication section.
Ex.P10	— 24-12-2018	Copy of the letter regarding the details of the office bearers of the trade union.
Ex.P11	— 07-12-2011	Notice of the enquiry from the Conciliation Officer to the trade union.
Ex.P12	— 07-08-2013	Failure report submitted by the Labour Officer (Conciliation), Puducherry to Government of Puducherry regarding the charter of demand, dated 02-12-2011.

List of respondent's witnesses: Nil.

List of respondent's exhibits: Nil.

V. PANDIARAJ ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.