



புதுச்சேரி மாநில அரசிதழ்

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பொருளடக்கம்

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 31/AIL/Lab./T/2019,
Puducherry, dated 28th February 2019)

NOTIFICATION

Whereas, an Award in I.D (T) No. 24/2017, dated 20-11-2018 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. Sri Bharathi Mills, Puducherry and M/s. Sri Bharathi Mill Thozhilalar Urimai Padukappu Sangam, Puducherry, over correction of date of birth in the service register of Thiru S. Vasudevan 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 C. KUMAR SARAVANAN, M.A., M.L.,
Presiding Officer,

Tuesday, the 20th day of November, 2018

I.D. (T) No. 24/2017

The President,
Sri Bharathi Mill Thozhilalar
Urimai Padukappu Sangam,
No. 61/2, First Floor, Aswini Hospital (Opp.),
Vazhuthavur Road, Koundenpalayam,
Puducherry-605 009. . . Petitioner

Versus

The Managing Director,
M/s. Sri Bharathi Mills,
(A Government of Puducherry Undertaking),
P.O. Box. No. 10, Mudaliarpatt, . . Respondent.
Puducherry-605 004.

This Industrial Dispute coming on 14-11-2018 before me for final hearing in the presence of Thiru K. Velmurugan, and Mrs. P. Preethi, 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. 170/AIL/Lab./T/ 2017, dated 08-11-2017 of the Labour Department, Puducherry, to resolve the following dispute between the petitioner and the respondent, *viz.*,

(i) Whether the dispute raised by the union of Sri Bharathi Mills Thozhilalar Urimai Padukappu Sangam, Puducherry, against Sri Bharathi Mills (PTC), over correction in date of birth of the service register of Thiru S. Vasudevan is justifiable or not? If justified, what is the relief entitled to?

2. The facts giving rise to this industrial dispute as stood expounded from the claim petition filed by the petitioner under rule 10B(1) of the Industrial Disputes (Central) Rules, 1957 runs thus:-

The petitioner workman by name S. Vasudevan, s/o. Srinivasan is a member of the petitioner union. The workman Vasudevan has joined in the respondent management on 01-12-1983 and is presently working as SBO in the respondent Mills. The date of birth of the petitioner workman is 09-09-1959 and he has submitted all his relevant documents to the respondent management at the time of joining. His date of birth *i.e.*, 09-09-1959 finds place in all the documents of the petitioner workman namely, Transfer Certificate, Passport, Driving Licence, Mark List of the petitioner workman, Aadhaar Card and Identity Card issued by the Kabadi Association. The petitioner workman has recently come to know that the respondent management has mistakenly entered the date of birth of the petitioner as 09-01-1959 instead of 09-09-1959. As such, the petitioner workman has given representation, dated 22-07-2016 to the respondent management for correction of his date of birth in the service records maintained by the respondent management. The respondent management has refused to act upon the representation. Hence, the petitioner union has raised industrial dispute before the Labour Officer (Conciliation), Puducherry, for correction of his date of birth in the service records maintained by the respondent management.

It is further stated that the act of the respondent management in entering the date of birth as 09-01-1959 seems to be purely clerical error/mistake for which the petitioner workman should not be victimized. If, the date of birth of the petitioner workman is corrected in the service records of the respondent management, no prejudice will be caused to the respondent management. However, the respondent management has refused to act upon the legitimate request of the petitioner workman for the reasons best known to it. A similar case for date of birth correction was filed against the respondent management by the INTUC union before the Labour Court, Puducherry under I.D(L). No. 1/2014 and on 29-01-2016, the Award was passed by the Labour Court, Puducherry directing the respondent management to correct the date of birth in all the service records of the respondent. In pursuance of the said Award, the respondent management has carried out the said date of birth correction in all the service records. However, the request of the petitioner workman is not acted upon by the respondent management. Therefore, the petitioner prays this Court to direct the respondent management to correct the date of birth of the petitioner workman S. Vasudevan, s/o. Srinivasan as 09-09-1959 in all his service records maintained by the respondent management in the interest of justice.

3 The point for consideration is:

(1) Whether the correct date of birth of the petitioner is 09-09-1959 as per his testimonials and School records which has been wrongly entered into the service records as 09-01-1959 maintained by the respondent management?

(2) Whether the petitioner is entitled for relief of correcting his date of birth as 09-09-1959 in the service records maintained by the respondent management?

(3) Whether the industrial dispute can be allowed?

4. This Court has issued notice to the respondent. Though, it was claimed by the respondent, called absent on 09-01-2018 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.P8 were marked. Heard the petitioner side and documents perused.

5 On this Points No. 1 and 2:-

According to the petitioner the employee S. Vasudevan, s/o. Srinivasan is a permanent workman of the respondent management who is working as workman and is member of the petitioner's union and he has joined the management on 01-12-1983 and now,

he is working as SBO in the respondent's Mills. It is pleaded that his date of birth have been wrongly entered as 09-01-1959 into the service registers, which is maintained by the respondent. The correct date of birth is 09-09-1959 of the employee Mr. S. Vasudevan, s/o. Srinivasan whereas, it is wrongly recorded as 09-01-1959. The said worker made several representations to correct his date of birth, but, the management corrected his date of birth, but, the management has refused to correct his date of birth. So, this industrial dispute has been raised. As such, the petitioner union raised industrial dispute before the Labour Officer (Conciliation), Puducherry, for the correction of date of birth in the service records, which is maintained by the management. Now, the question would arise that whether the dispute raised by the Union of Sri Bharathi Mills Thozhilalar Urimai Padukaapu Sangam, Puducherry (INTUC), against the management of Sri Bharathi Mills (PTC), Puducherry, over change of correction of the date of birth in the Service Register of Thiru S. Vasudevan as 09-01-1959 instead of 09-09-1959 as per records is justified or not? If justified, what relief he is entitled to?

6. The concerned employee, namely, Thiru S. Vasudevan is a member of the petitioner union who has been examined as PW.1. He has categorically stated that he was employed as workman and he has joined on 01-12-1983, now, working as SBO under the management Mills. At that time of appointment, he represented the particulars all his particulars and relevant documents to the respondent management but, the entries in the service records and his date of birth as 09-01-1959 was wrongly entered into by the officials of the management. Though, he made several representations, the respondent management was not amenable to correct the erroneous particulars. Anyhow, the management was kind enough to be corrected the petitioner's date of birth. It is submitted that the petitioner's date of birth is 09-09-1959, but, it was mistakenly entered as 09-01-1959 in the service records. On representation given by the petitioner, dated 22-07-2016 to the management for correction of his date of birth in the service records maintained by the respondent is to correct the date of birth, but, the same was not suitably corrected. Further, it is stated by the petitioner-PW. that the management has refused to acted upon, in spite of representation made by the petitioner.

7. The petitioner in order to prove his correct date of birth has, the petitioner has produced some documents. The photo copy of School Transfer Certificate as Ex.P1, dated 21-07-2013, photocopy of the Passport as Ex.P3, dated 12-10-2012, photocopy of Driving Licence as Ex.P3,

dated 13-08-2001, photocopy of the School Mark List of the petitioner as Ex.P4, dated 21-07-2013, Photocopy of the Identity Card of the petitioner workman issued by the Kabadi Association, Puducherry, dated 02-03-1984 as Ex.P5, photocopy of the Aadhaar Card of the workman, dated 29-05-2012 is as Ex.P6, photocopy of the representation given by the petitioner-workman to the respondent management, dated 22-07-2016 is as Ex.P7, photocopy of the Award passed by the Hon'ble Labour Court, Puducherry in I.D(L) No. 1 of 2014, dated 29-01-2016 as Ex.P8. In all this documents petitioner's date of birth is recorded as 9th September, 1959.

8. The petitioner-PW.1 has specifically contended that the Industrial Tribunal having jurisdiction to correct the date of birth and the similar case has been decided, which was filed against the respondent management by the INTUC Union before the Industrial Tribunal under I.D(L) No. 1 of 2014, dated 29-01-2016, which is evidenced from Ex.P8 and the Award has been passed by the Tribunal directing the management to correct the date of birth in all service records of the respondent. So, it is clear that when the petitioner was appointed as a workman, his date of birth as 09-01-1959 were recorded mistakenly instead of 09-09-1959 by the respondent management.

9. Further, the testimonials of the petitioner, it is crystal clear that the management was not perused the records properly which were produced by the petitioner/workman at the time of his entry into service. Further, it is contended that not only the petitioner, but, some other employees had also the same problem of wrong entries in their service registers and they approached the Courts and after getting favourable order got corrected their date of birth. It is admitted that apart one employee Mr. K. Gunasekaran approached this Court by raising an industrial dispute and it has been referred as per the G.O. Rt. No.174/AIL/Lab./J/2013, dated 11-12-2013 for adjudication in I.D(L) No. 1 of 2014 with reference to correction of his date of birth and it was allowed on 29-01-2016 and the copy of the order has been produced and referred for perusal under Ex.P8. So, it is inferable that at the time of appointing employees, the respondent management did not exercise due care while recording their bio-data and other particulars of the employees or workmen. So, the wrong date of birth is reflected in the petitioner's service registers. So, this documents which were produced by the workman would substantiate the contention of the petitioner.

10. The petitioner has let in relevant and precise documentary evidence to substantiate his contention that his correct date of birth is only on 09-09-1959. The genuineness of correct date of birth is as Ex.P1, Ex.P2,

Ex.P3 and P4 have been specifically proved by the petitioner workman. Of course, the date of birth of the workman has been recorded as 09-09-1959 in his Identity Card issued by the Kabadi Sangam, Puducherry is marked as Ex.P5 and the petitioner's Aadhaar Card marked as Ex.P6 which were already discussed. Purely on the basis of entries found in service records as already discussed date of birth of the worker has been wrongly mentioned as 09-01-1959 instead of 09-09-1959 in his service records maintained by the management M/s. Sri Bharathi Mills, Puducherry.

11. The burden is on the petitioner to prove his correct date of birth by adducing relevant reliable evidence. The petitioner has let in relevant documentary evidence, namely, Ex.P1 to Ex.P8. The respondent has not come forward to arise any objection to the documentary evidence namely, Ex.P1 to Ex.P8, produced by the petitioner to show his correct date of birth as 09-09-1959. But, the petitioner has stated that though he made several oral representations, the respondent management was not amenable and finally corrected his date of birth. Ultimately, on behalf of the said employee, the petitioner union has raised the industrial dispute before the Conciliation Officer and since the conciliation failed the same has been referred to this Court for adjudication. The petitioner workman has filed his claim statement under rule 10B(1) of the Industrial Disputes (Central) Rules 1957.

12. Section 10(2A) in the Industrial Disputes Act 1947 reads as follows :

"An order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section shall specify the period within which such Labour Court, Tribunal or National Tribunal shall submit its Award on such dispute to the appropriate Government: Provided that where such industrial dispute is connected with an individual workman, no such period shall exceed three months: Provided further that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, to the Labour Court, Tribunal or National Tribunal for extension of such period or for any other reason, and the Presiding Officer of such Labour Court, Tribunal or National Tribunal considers it necessary or expedient to extend such period, he may for reasons to be recorded in writing, extend such period by such further period as he may think fit: Provided also that in computing any period specified in this sub-section, the period, if any, for which the proceedings before the Labour Court, Tribunal or National Tribunal had been stayed by any injunction

or order of a Civil Court shall be excluded: Provided also that no proceedings before a Labour Court, Tribunal or National Tribunal shall lapse merely on the ground that any period specified under this sub-section had expired without such proceedings being completed”.

13. Regarding maintainability of the industrial dispute for the relief of correction of date of birth the learned Counsel for the petitioner pointed out 6th item of the Second Schedule of the Industrial Disputes Act 1947 empowers this Tribunal/Labour Court to adjudicate the dispute. The sixth item of the Second Schedule says “All matters other than those specified in the third schedule”. Section 2(k) defines an industrial dispute means “any dispute or difference between employers and employers or between employers and workmen or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or with the conditions of labour or any persons.” Now, there is difference regarding date of birth of the employee between employee himself and the employer which is connected with the terms of employment. So, the petitioner trade union is entitled to raise this industrial dispute regarding the wrong entry of date of birth of one of its member employee since the same is connected with employment. The Conciliation Officer also taking note of this point has referred this dispute to this Court for adjudication. It is pertinent to note that the petitioner has already exhausted his remedy before the respondent management, it was ended in vain. So, the Industrial Tribunal/Labour Court has got jurisdiction to decide the industrial dispute and to grant the relief sought for by the petitioner.

14. The respondent management has not raised any serious objection to carry out correction regarding date of birth of the petitioner. As the petitioner, personally has made a request under Ex.P7, dated 22-07-2016, seeking to correct date of birth but, the respondent management declined to correct his date of birth. Now, the petitioner has produced all relevant documentary evidence to show that his correct date of birth is 09-09-1959 which has been mistakenly entered as 09-01-1959 in the service registers maintained by the respondent management. So, under such circumstances on appreciating oral and documentary evidence adduced on the petitioner side, I hold that the petitioner is entitled for the relief as claimed in the industrial dispute. Accordingly, I answer Point No. 1 that the correct date of birth of the Workman Thiru S.Vasudevan is 09-09-1959 and the same has been mistakenly entered into the service records as 09-01-1959 maintained by the respondent management and consequently I answer Point No. 2 that the petitioner is entitled for the relief of correcting date of birth of the said workman as 09-09-1959 instead of 09-01-1959.

Point No. 3

15. For the foregoing reasons discussed above and as answered for the Points No. 1 and 2, and I conclude that this industrial dispute has deserves to be allowed and the Court is decided Point No. 3 accordingly.

16. In the result, the industrial dispute (Labour) is allowed and the respondent/management is hereby directed to correct and carry out the date of birth of the petitioner/workman Thiru S.Vasudevan, s/o. Srinivasan, is as 09-09-1959, presently working as SBO in the management mill, in all his service records maintained by the respondent/management.

The Order typed by me in Laptop, corrected and pronounced by me in open Court on this the 20th day of November, 2018.

C. KUMAR SARAVANAN,
Presiding Officer (FAC),
Labour Court, Puducherry.

Petitioner's witness:

PW.1 — 09-05-2018 K. Mohandoss (Petitioner)

Petitioner's exhibits:

Ex.P1 — 21-07-1973 Xerox Copy of School Transfer Certificate of the petitioner workman S. Vasudevan.

Ex.P2 — 12-10-1992 Xerox Copy of the Passport of the petitioner workman.

Ex.P3 — 13-08-2001 Xerox Copy of Driving Licence of the petitioner workman.

Ex.P4 — 21-07-1973 Xerox Copy of School Mark List of the petitioner workman.

Ex.P5 — 02-03-1984 Xerox Copy of Identity Card of the petitioner workman issued by Kabadi Association, Puducherry.

Ex.P6 — 29-05-2012 Xerox Copy of Aadhaar Card of the petitioner workman.

Ex.P7 — 22-07-2016 Xerox Copy of the representation given by the petitioner workman to the respondent management.

Ex.P8 — 29-01-2016 Xerox Copy of Award passed by the Hon'ble Labour Court, Puducherry in I.D. (L) No. 1/2014.

C. KUMAR SARAVANAN,
Presiding Officer (FAC),
Labour Court, Puducherry.