



புதுச்சேரி மாநில அரசிதழ்

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அதிகாரம் பெற்ற வெளியீடு

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SOMMAIRES

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 49/Lab./AIL/T/2021, dated 29th July 2021)

NOTIFICATION

Whereas, an Award in I.D (L) No. 31/2017, dated 22-03-2021 of the Industrial Tribunal-Cum-Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. Kal Publications Private Limited, Puducherry and Thiru A. Muthupandi, Puducherry, over reinstatement 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)

D. MOHAN KUMAR,
Under Secretary to Government (Labour).

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

Present :Thiru P. DHANABAL, B.Sc., B.L.,
Presiding Officer (FAC)

Monday, the 22nd day of March, 2021

I.D. (L) No. 31/2017

A. Muthupandi,
No. 29, VOC Street,
Kamaraj Nagar,
Gorimedu,
Puducherry. Petitioner

Versus

The General Manager,
M/s. Kal Publications
Private Limited, SPL AI and GI,
Industrial Estate,
Thattanchavady, Puducherry. Respondent

This industrial dispute coming on 05-03-2021 before me for final hearing in the presence of Thiru P. Shankaran, Counsel for the petitioner, Thiru T. H. Nizamudeen, Counsel for the respondent, upon hearing, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

This Industrial Dispute has been referred by the Government of Puducherry as per the G.O. Rt. No.76/AIL/Lab./T/2017, dated 08-05-2017 for adjudicating the following:-

(a) Whether the dispute raised by Thiru A. Muthupandi against the management of M/s. Kal Publications Private Limited, Puducherry, over reinstatement is justified or not? If justified, what relief he is entitled to?

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

2. The averments in the claim statement of the petitioner, in brief are as follows :

The petitioner was appointed in the respondent company as Office Assistant on 06-05-2002. The respondent company has been functioned in Puducherry from 2001. In the year of 2007, the petitioner was paid hiked of salary of ₹ 4,000 whereas, the other persons who working with the petitioner ₹ 5,000 as hiked of salary. Further, though the ESI and EPF was deducted from September 2008 they obtained written submission from the petitioner that he has only joined on 01-08-2008. The petitioner has been working more than 14 years without any blemish and he lastly drawn a sum of ₹ 8,919 as salary. On 08-11-2016 the General Manager of the respondent company called the petitioner and asked to give training to one Saithanya Prasad. Accordingly, the petitioner also gave training to him, on 09-11-2016, the petitioner instructed the person to segregate the bills and then he went for drinking water. Thereafter, the co-worker told him that the General Manager searched him, immediately he gone to the room of General Manager, but, the General Manager scolded him and then obtained written letter. Accordingly, he handed over an amount of ₹ 650 and room key. Thereafter, the petitioner was waiting for appropriate orders from the respondent. Since, the respondent has not issued any reply and he complained before the Labour Department on 14-11-2016. Thereafter, on 28-12-2016 the management has given false reply, dated 28-12-2016 and the same was replied by the petitioner, again the management has given false reply, dated 20-01-2017. Since, the dispute has not been settled between the parties, the Settlement Officer has referred the matter to the Labour Court. The petitioner has been removed from service without any reason, no enquiry was conducted and no written order given to him, since, no opportunities was given to the petitioner to putforth his defence and not followed principles of natural justice and hence, the petitioner filed this claim statement.

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

The respondent denied the every allegations contained in the said claim statement. It is true that the petitioner was working in Collection section at Sooriyan Press Office of Dhinakaran, he used to roam out during the course of his employment, whenever he was asked the reason, he has been given only evasive reply by saying that he was drinking water attended natural calls and gone to take a tea and he was given several excuses. Further, the respondent has found the malpractices of the petitioner and he has not given any explanation by written and he is not give any appropriate answer. The petitioner has refused to give excuse letter though he was directed, the petitioner used to scold the officers unparliamentary from his seat, on the date of incident when he was asked the reason he has not given any suitable answer. The petitioner was a chronic absentee and the petitioner is also inducing the other persons in the office to act like him by creating havoc in the administration unnecessarily and petitioner has filed the above vexatious petition with false and fabricated story and hence, the petition is liable to be dismissed.

4. After receipt of referral order from the Government, this Court has issued notice to the both sides and then the petitioner has filed the claim application. The respondent has also filed counter. During the course of enquiry, on the side of the petitioner PW1 was examined Ex. P1 to Ex. P8 were marked. On the side of the respondent RW1 was examined and no document was marked. Upon perusing the pleadings and documents and hearing both sides. The points for consideration are:

(1) Whether the dispute raised by the petitioner against the respondent management over his non-employment is justified or not?

(2) If justified, what is the relief entitled to the petitioner?

5. Heard both sides and perused the records, both side have filed written arguments and also perused.

6. *On Points 1 and 2:*

The petitioner's contention is that he was an employer of the respondent management and he was appointed as Office Assistant on 06-05-2002 and thereafter, he was removed from service, and his last salary was ₹ 8,919. On 08-11-2016, the manager of the respondent management has directed the petitioner to give training to one Saithanya Prasad. Accordingly, on 09-11-2016 he gave a training and then he went for drinking water. After some time co-worker stated that the General Manager was searched him, immediately he

went to the room of General manager at the time, without any enquiry, the General Manager of the respondent management scolded in English and again called the Sales Manager and directed him to sent out the petitioner after receiving all the things and then the petitioner was compelled to give consent letter to go out after resigned his job and he refused to do so. Thereafter, due to the compulsion of Sales Manager he handed over the Identity Card, room key and an amount of ₹ 650 to the Saithanya Prasad and then he went out. Since, then the petitioner is expecting the reply from the respondent management, but, they have not issued any reply and thereby on 14-11-2016, he gave a petition to the Labour Officer and the same was served to the respondent management, but, they have not come forward to settle the issue and the dispute has not been settled and referred to the Labour Court.

7. The respondent's contention is that the respondent also admitted that the petitioner was working under the respondent management and he was removed from his service due to wrongs committed by the petitioner. The petitioner mainly raised the allegation that no written termination order was received and he was orally instructed and he was removed from the service. The respondent also admitted the removal of petitioner from his employment, but, no any written order produced by the either parties. The main contention of the petitioner is that no charge memo was issued, no enquiry was conducted, no opportunities were given to petitioner to putforth his defence and without following the legal formalities, the respondent management has removed the petitioner from his service.

8. PW1 filed the proof affidavit by supporting the claim averments. The contention of the respondent management also that the petitioner was insubordination and continuously he was absent arid thereby appointed some other persons in his place. In this context, the PW1 in his chief examination stated that “என்னை எதுவுமே விசாரிக்காமல், ஆங்கிலத்தில் திட்டி, நாயே வெளியே போடா என்றார். மேலும், விற்பனை மேலாளரை அழைத்து என்னிடம் எல்லா பொறுப்புகளையும் வாங்கிக்கொண்டு வெளியே அனுப்புங்கள் என்றார். அப்போது, நான் எழுத்து பூர்வ ஆணை கொடுத்தால் போய் விடுவதாகச் சொன்னேன். நானாக, கடிதம் தரமுடியாது என மறுத்து விட்டேன், அதனைத் தொடர்ந்து விற்பனை மேலாளர் சரவணன் கேட்டதனால், என்னுடைய அடையாள அட்டை, மேசை சாவி, சுரியன் பதிப்பக லும் சாவி மற்றும் ரொக்கம் ரூ. 650-ஐ சைதானிய பிரசாத்திடம் ஒப்படைத்துவிட்டு வந்து விட்டேன். Further, during the course of cross-examination, PW1 has stated that மேலும், எனது Circulation Manager சரவணன் என்பவரை வரச்சொல்லி என்னிடமிருந்த Identity Card மற்றும் சில ஆவணங்கள், டேபில் சாவி, பணம் ரூ. 650 ஆகியவற்றை வாங்கிவிட்டு, எழுதி வாங்கிவிட்டு அனுப்புமாறு சொன்னார். நான் தர முடியாது என்று சொல்லிவிட்டேன்.

அவர்களாக போக சொன்னதால், லைட்டர் தர முடியாது என்றும் நீங்களாக கொடுத்தால் வாங்கிக்கொண்டு போய் விடுகிறேன் என்று சொன்னேன்”. RW1 also in his chief examination stated that “இந்த வேலையைல்லாம் என்னிடம் வைத்துக்கொள்ளாதீர்கள். உங்களைப்போல் பலரைப் பார்த்துவிட்டேன். நான் இந்த வேலையை நம்பி இல்லை. உன்னை பார்க்கவேண்டிய இடத்தில் பார்த்துக்கொள்கிறேன் என்று கூறிவிட்டு, அவரது அடையாள அட்டையை என் மேசைமீது தூக்கியெறிந்துவிட்டு, அலுவலகத்தைவிட்டு வெளியே சென்றார்”. Further, the RW1 also admitted that due to the continuous absent of petitioner they have appointed some other person in the place of petitioner. Therefore, it is deemed to be termination. Therefore, it is clear from the evidence of PW1 and RW1 that the petitioner was working in the respondent management and he was not allowed to do the work and he was orally terminated from service and there was no charge memo was given to the petitioner, no enquiry was conducted and no any opportunities was given to the petitioner to putforth his defence. Therefore, it is clear that principles of natural justice has not been followed and thereby the termination order is not in accordance with law. Therefore, it is appropriate to be held that the industrial dispute raised by the petitioner against the respondent management, over his non-employment is justified and hence, the petitioner is entitled for reinstatement as claimed by him in the claim petition.

9. As far as, the back wages and other attendant benefits are concerned, the petitioner himself admitted that since the respondent management asked to handed over the things, he handed over and gone out. Thereafter, the petitioner has not approached the respondent management for his employment and further, he has not sent any written requisition for his employment and further, the RW1 has categorically stated that when the respondent management asked about his non-availability in the work place he shouted the respondent management and went out and therefore, the petitioner himself went out from the work place and thereafter, he never approached the respondent management and within four days he lodged petition before the Labour Authority. However, the petitioner was serving in the respondent management for 14 years and the respondent management also not sent any letters of demand of apology or any explanation from the petitioner. Therefore, considering the abovesaid circumstances this Court decided that the petitioner is entitled to 20% of back wages with continuity of service and other attendant benefits. Thus, the points 1 and 2 are answered.

10. In the result, this petition is allowed by holding that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified by declaring that the termination of service of the petitioner from the

respondent management is illegal and Award is passed by directing the respondent management to reinstate the petitioner in service within one month from the date of this order and further directed the respondent management to pay 20% back wages from the date of termination till date on reinstatement with continuity of service and other attendant benefits. No costs.

Dictated to the Stenographer, transcribed by him, corrected and pronounced by me in the open Court, on this the 22nd day of March, 2021.

P. DHANABAL,
Presiding Officer (FAC),
Industrial Tribunal-cum
Labour Court,
Puducherry.

List of petitioner's witness:

PW.1 — 01-08-2019 Muthupandi

List of petitioner's exhibits:

Ex.P1 — Copy of Identity Card issued by the Respondent Institution.

Ex.P2 — Copy of Salary Slip for the month of July 2016.

Ex.P3 — 14-11-2016 Copy of petition filed by the petitioner to the Conciliation Officer, Labour Department.

Ex.P4 — 28-12-2016 Copy of reply filed by the respondent to the Conciliation Officer, Labour Department.

Ex.P5 — 10-01-2017 Copy of Additional petition filed by the petitioner to the Conciliation Officer, Labour Department.

Ex.P6 — 20-01-2017 Copy of Additional Reply filed by the respondent to the Labour Officer (Conciliation).

Ex.P7 — 01-03-2017 Copy of Conciliation Failure Report issued by the Labour Officer (Conciliation).

Ex.P8 — 08-05-2017 Copy of Gazette Publication G.O. Rt. No. 76/AIL/Lab./T/2017, Puducherry, dated 08-05-2017,

List of respondent's witness:

PW.1 — 19-11-2019 Lokesh

List of respondent's exhibits : Nil

P. DHANABAL,
Presiding Officer (FAC),
Industrial Tribunal-cum-
Labour Court, Puducherry.