



புதுச்சேரி மாநில அரசிதழ்

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 79/AIL/Lab./T/2021,
Puducherry, dated 13th November 2021)

NOTIFICATION

Whereas, an Award in I.D (T) No. 07 /2019, dated 20-09-2021 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the Industrial Dispute between the management of M/s. PONTEX and the Puducherry State Weavers Co-operative Society Ltd., No. P.57, Industrial Estate, Thattanchavady, Puducherry, and the Union workmen represented by AITUC Pontex Thozhilalargal Sangam, Mudaliarpet, Puducherry, over non-payment of salary dues from 01-02-2017 to the Union workmen 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 23-05-1991, 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 R. BHARANIDHARAN, M.L.
Presiding Officer.

Monday, the 20th day of September 2021.

I.D. (T) No. 07/2019

in

CNR. No. PYPY060000272019

1. M. Buvanewari
2. P. Kuttan
3. S. Karpagam
4. H. Annalakshmi
5. S. Murugan
6. M. Jaiganesh
7. D. Nedunchezian
8. S. Pannerselvam
9. M. Badmanaban
10. M. Rajasekar
11. A. Murugam

12. D. Nagarajane
13. G. Gunamathy
14. S. Jenitha Campane
15. A. Leema Arokiamary
16. R. Vadivelan
17. M. Sivakumar
18. S. Kumaresan
19. V. Sekar
20. M. Malarkodi
21. B. Padmavathy
22. R. Sudha
23. K. Arumugam
24. P. Saravanan
25. N. Mohanraj
26. R. Thanigaivelu
27. R. Buvanewari
28. S. Kathirvelu
29. P. Annamalay
30. D. Rajavelu
31. K. Ramesh
32. M. Iroudayaradjou
33. S. Balaji
34. D. Kumar

Rep. by its The Secretary,
AITUC Pontex Thozhilalargal Sangam,
No. 49, Rodier Mill Street,
Mudaliarpet, Puducherry. . . Petitioners

Versus

The Managing Director,
M/s. PONTEX,
The Puducherry State Weavers Co-operative
Society Ltd., P.57, Industrial Estate,
Thattanchavady,
Puducherry. . . Respondent

This Industrial Dispute coming on 13-09-2021 before me for final hearing in the presence of Thiru Mr. Vinayagam, Counsel for the petitioner, Thiru A. Ellappane, Counsel for the respondent, the respondent being called absent and set *ex parte*, upon hearing the petitioner and perusing the case records, this Court delivered the following:

AWARD

This Industrial Dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 39/AIL/LAB/T/2019, dated 11-03-2019 of the

Labour Department, Puducherry, to resolve the following dispute between the petitioners and the respondent, *viz.*,

(a) Whether the dispute raised by the Union workmen represented by AITUC Pontex Thozhilalargal Sangam, Mudaliarpur, Puducherry, against the management of M/s. PONTEX, the Puducherry State Weavers Co-operative Society Ltd., No. P57, Industrial Estate, Thattanchavady, Puducherry, over non-payment of salary dues from 01-02-2017 to the Union workmen are justified or not? If justified, what relief the Union workmen are entitled to? .

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

2. *The averments made in the claim Statement:*

The petitioners are working in the Pondicherry Co-operative Textile Processing Society Ltd., from the year 2013 as employees in various designations. All the 34 employees were received salary from the management till August 2013. The management has also collected EPF and ESI and other amounts from the salary of the employees. Due to continuous loss in business Texpro was windup by an order, dated 02-02-2016 by the Registrar of Co-operative Societies, Government of Puducherry. All the petitioners are relieved from the service of Texpro on 04-02-2016 without paying 23 months arrears of salary. The Government of Puducherry for the welfare of the petitioners has taken a policy decision and started a separate dying Union and appointed all the 34 employees in the dying unit of PONTEX management. All the petitioners were re-appointed in PONTEX and salary was also given as mentioned in the appointment order. All the 34 employees were joined the PONTEX management on 11-02-2016 and got salary till the month of January 2017. The petitioners were also obtained loan and the loan amount was recovered from their salary by the respondent. The petitioners have approached the Conciliation Officer, Labour Department, Puducherry through, AITUC PONTEX Thozhilalargal Sangam. Since, the conciliation was not effective, all the petitioners raised Industrial Dispute before this Tribunal. In the conciliation proceedings, the management expressed its inability to settle the issue due to heavy financial crisis prevailing in PONTEX.

3. On the respondent side Thiru A. Ellappane has filed vakalat for respondent. Since, the counter was not filed for a long time, the respondent was set *ex parte* on 07-01-2020.

4. *Points for consideration:*

(i) Whether the respondent has to pay the arrears of salary for 23 months for the period from September 2013 to March 2015 and October 2015 to January 2016 to all the petitioners?

(ii) Whether the petitioners are entitled to receive the arrears of salary from February 2017 to September 2019 and consequently?

(iii) Whether the petitioners are entitled for the arrears of bonus and other attending benefits?

5. Thiru S. Murugan, son of Subramanian, was examined as PW1 and through him EX.P1 to P46 were marked. In the evidence of PW1, he has deposed that the petitioners were working as employees in the Texpro management from the year 2013. Due to loss in the business the Texpro company was windup by an order of the Registrar of Co-operative Societies. All the petitioners were relieved from the service of Texpro without payment of 23 months salary. Thereafter, the petitioners were reappointed as employees of dying unit of Pontex management. All the petitioners got salary till the month of January 2017, but, the respondent management has not paid the salaries to the petitioners from the month of February 2017 to September 2019 which is for about 32 months. The petitioners approached the Conciliation Officer through AITUC. The management expressed they are in a heavy financial crisis and expressed its inability to settle the issue.

6. This Court has carefully considered the submission made by the learned Counsel for the petitioners and perused all the exhibits filed in support of the petitioners claim. Exhibits P14 to Ex.P44 are the copies of service records of the petitioners. Ex.P1 is the order of appointment issued to the petitioners Tmt. Gunamathi. The order of appointment was issued by the Managing Director of the Dying Unit. The learned Counsel for the petitioners submitted that the respondent management not paid salary to all the petitioners which amount to unfair labour practice. It is further submitted that the representative of the management appeared before the Conciliation Officer has expressed their inability to pay the salaries to the petitioners due to heavy financial crisis.

7. The non-payment of salary to the petitioners is due financial crisis in the respondent management and not on the fault of the petitioners. In the reference made by the Under Secretary to Government (Labour), the pertinent question raised by the Labour Department for adjudication is whether non-payment of salaries due from of 01-02-2017 till date of making reference is justified.

8. From the evidence of PW1 Murugan, it is clear that all the 34 petitioners are working with Texpro from the year 2003 and they were relieved from the service from August 2013. Thereafter, they have joined the service of the Dying unit, PONTEX from 11-02-2016 and got their salary till the month of January 2017. The evidence of PW1 mentioned clear that the respondent has not paid the salary from February 2017 to September 2019 to the petitioners. The conciliation proceedings conducted before the Conciliation Officer, Labour Department was not fructified.

9. Though, the respondent was appeared to through Counsel they were not filed the counter and the respondent was set *ex parte*. There is no counter available from the respondent side that the petitioners were promptly paid their salaries. In the absence of any such contradiction, this Tribunal is of the considered opinion that the salaries of the petitioners were not promptly paid and they are entitled for their salaries from February 2017 to September 2019 (32 months).

10. The learned Counsel for the petitioners has invited this Court attention to the Judgment of Karnataka High Court reported in 1991, II LLJ 139, Karnataka High Court and 2. I LR 1987 KAR 50 Karnataka High Court and submitted to grant the relief to the petitioners for the period from September 2013 to March 2015 and October 2015 to January 2016 which are the period not covered under the reference. It is the general rule that the jurisdiction of Labour Court or a Tribunal springs from the order of reference and it has to confine the adjudication to the specified Industrial Dispute and matters incidental thereto. Under section 10(4) of Industrial Disputes Act, the Industrial Tribunal or Labour Court has to confine his adjudication to those points and matters incidental thereto. In the order of reference the period is confined to 01-02-2017 till the date of reference. The claim of the petitioner is to consider the claim of arrears of salary for 23 months from September 2013 to March 2015 and October 2015 to January 2016 would certainly not come under the purview of the matters incidental thereto. Hence, this Tribunal is not inclined to grant any relief for the period from September 2013 to march 2015 and October 2015 to January 2016.

11. This Tribunal is of the considered opinion that the petitioners are entitled for the arrears of salary for the period from February 2017 to September 2019 and subsequent salary from the month of October 2019 to till date along with increments and bonus entitled to the petitioners.

12. In the result, the claim petition is partly allowed. The respondent management is directed to pay the arrears of salary from February 2017 to September 2019 to all the petitioners. The respondent is further directed to pay the unpaid salaries to all the petitioners from the month of October 2019 till today. The respondent is

further directed to pay the arrears of bonus for the year 2016, 2017 and 2018 and for consequent years as per the entitlement of the petitioners. The respondent is directed to pay the abovesaid arrears of salary and bonus to the petitioners within a period of 8 weeks from the date of this Award. No costs.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the open Court on this the 20 th day of September, 2021.

R. BHARANIDHARAN,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witness:

PW.1 — 03-02-2021 Murugan

List of petitioner's exhibits:

Ex.P1 — 28-09-2005 Xerox copy of Appointment Order issued by Texpro.
Ex.P2 — 21-08-2015 Xerox copy of Agreement between Union and Management.
Ex.P3 — 02-02-2016 Xerox copy of Windingup orders for Texpro.
Ex.P4 — 04-02-2016 Xerox copy of Dismissal Order issued by Texpro.
Ex.P5 — 10-02-2016 Xerox copy of Order for Engagement of Texpro Employees to PONTEX.
Ex.P6 — 11-02-2016 Xerox copy of Memorandum for Appointment.
Ex.P7 — 24-06-2019 Xerox copy of Letter for Recovery of Loan.
Ex.P8 — 26-06-2018 Xerox copy of Notice of Attachment issued by EPF Office.
Ex.P9 — 06-02-2017 Xerox copy of Complaint to Lieutenant-Governor.
Ex.P10 — 03-11-2017 Xerox copy of Complaint to Conciliation Officer.
Ex.P11 — 25-10-2018 Xerox copy of Letter referred for Adjudication.
Ex.P12 — 11-03-2019 Xerox copy of G.O. for Adjudication.
Ex.P13 — 16-02-2016 Xerox copy of Gazette Notification for Liquidation.
Ex.P14 — Xerox copy of Service Records of M. Buvaneswari (6 sheets).

Ex.P15	—	Xerox copy of Service Records of P. Kuttan (7 sheets).	Ex.P32	—	Xerox copy of Service Records of M. Malarkodi (6 sheets).
Ex.P16	—	Xerox copy of Service Records of S. Karpagam (6 sheets).	Ex.P33	—	Xerox copy of Service Records of B. Padmavathy (4 sheets).
Ex.P17	—	Xerox copy of Service Records of H. Annalakshmi (6 sheets).	Ex.P34	—	Xerox copy of Service Records of R. Sudha (6 sheets).
Ex.P18	—	Xerox copy of Service Records of S. Murugan (6 sheets).	Ex.P35	—	Xerox copy of Service Records of K. Arumugam (6 sheets).
Ex.P19	—	Xerox copy of Service Records of M. Jaiganesh (6 sheets).	Ex.P36	—	Xerox copy of Service Records of P. Saravanan (6 sheets).
Ex.P20	—	Xerox copy of Service Records of D. Nedunchezhiyan (4 sheets).	Ex.P37	—	Xerox copy of Service Records of N. Mohanraj (7 sheets).
Ex.P21	—	Xerox copy of Service Records of S. Pannerselvam (7 sheets).	Ex.P38	—	Xerox copy of Service Records of S. Kathirvelu (2 sheets).
Ex.P22	—	Xerox copy of Service Records of M. Badmanaban (6 sheets).	Ex.P39	—	Xerox copy of Service Records of P. Annamalay (4 sheets).
Ex.P23	—	Xerox copy of Service Records of M. Rajasekar (3 sheets).	Ex.P40	—	Xerox copy of Service Records of D. Rajavelu (2 sheets).
Ex.P24	—	Xerox copy of Service Records of A. Murugan (7 sheets).	Ex.P41	—	Xerox copy of Service Records of K. Ramesh (2 sheets).
Ex.P25	—	Xerox copy of Service Records of D. Nagarajane (6 sheets).	Ex.P42	—	Xerox copy of Service Records of M. Iroudayaradjou (2 sheets).
Ex.P26	—	Xerox copy of Service Records of G. Gunamathy (6 sheets).	Ex.P43	—	Xerox copy of Service Records of S. Balaji (1 sheet).
Ex.P27	—	Xerox copy of Service Records of S. Jenitha Campane (6 sheets).	EX.P44	—	Xerox copy of Service Records of D. Kumar (2 sheets).
Ex.P28	—	Xerox copy of Service Records of A. Leema Arokiamary (6 sheets).	EX.P45	—	Xerox copy of list of Employees – Annexure-I (with Arrears).
Ex.P29	—	Xerox copy of Service Records of M. Sivakumar (7 sheets).	EX.P46	—	Xerox copy of list of Employees – Annexure-II (with Arrears).
Ex.P30	—	Xerox copy of Service Records of S. Kumaresan (5 sheets).			
Ex.P31	—	Xerox copy of Service Records of V. Sekar (6 sheets).			

List of respondent's witnesses: Nil

List of respondent's exhibits: Nil

R. BHARANIDHARAN,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.