



புதுச்சேரி மாநில அரசிதழ்

La Gazette de L'État de Poudouchéry The Gazette of Puducherry

அதிகாரம் பெற்ற வெளியீடு

Publiée par Autorité

Published by Authority

| | | | | | | |
|-----|------|-------------|-----------------|---------|-----------|------------------------|
| எண் | } 31 | புதுச்சேரி | செவ்வாய்க்கிழமை | 2022 லு | ஆகஸ்ட் மீ | 2 ம |
| No. | | Poudouchéry | Mardi | 2 | Août | 2022 (11 Sravana 1944) |
| No. | | Puducherry | Tuesday | 2nd | August | 2022 |

பொருளடக்கம்

SOMMAIRES

CONTENTS

| | பக்கம் | | Page | | Page |
|---------------------------------|--------|---|--------|---------------------------|--------|
| தொழில் நீதிமன்றத் தீர்ப்புகள்.. | 578 | Sentence arbitral du travail de tribunal. | .. 578 | Award of the Labour Court | .. 578 |
| அரசு அறிவிக்கைகள் | .. 582 | Notifications du Gouvernement | .. 582 | Government Notifications | .. 582 |
| சாற்றறிக்கைகள் | .. 589 | Annonces | .. 589 | Announcements | .. 589 |

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 109/AIL/Lab./T/2022,
Puducherry, dated 27th June 2022)

NOTIFICATION

Whereas, an Award in I.D. (T) No. 07/2017, dated 04-03-2022 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the Industrial Dispute between the management of M/s. Dr. Miltons Laboratories Private Limited, Puducherry and its Union Workmen represented by Indiya Thozhirsanga Maiyam (CITU), Puducherry, over illegal closure and non-employment of S. Arulvizhi and 26 others as listed in Annexure-I;

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. 20/9/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.

ANNEXURE – I

| Sl. No. | Name |
|---------|------|
| (1) | (2) |

Tmt./Selvi :

- S. Arulvizhi
- S. Boomadevi
- J. Revathi
- G. Nalini
- H. Shanmugapriya
- M. Katheravi
- L. Banumathi
- M. Rajeswari
- A. Thamizharasi
- I. Deivakanni
- E. Shanthi
- S. Lakshmi
- R. Kavitha
- S. Meenabai
- A. Vimala
- D. Valli
- G. Mahalakshmi

(1) (2)

Tmt./Selvi :

- P. Suseela @ Usha
- V. Veerammal @ Pushpa
- S. Muniammal @ Jamuna
- I. Saraswathy
- M. Kannagi
- S. Lakshmi
- S. Amsaveni @ Guna
- M. Maidhili
- P. Deivanai
- K. Valli

(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.

Friday, the 4th day of March 2022.

I.D. (T) No. 07/2017
in

C.N.R. No. PYPY06000033-2017

The Secretary,
Indiya Thozhirsanga Maiyam (CITU),
No. 42, Cuddalore Road,
Near Bharathi Mill
Mudaliarpet, Puducherry. . . Petitioner

(Representing the following list of employees)

| Sl. No. | Name |
|---------|------|
| (1) | (2) |

Tmt./Selvi :

- Priya @ Shanmugapriya
- Kathiravi
- Arulvizhi
- Lakshmi
- Soucila
- Boomadevi
- Banumathi

(1) (2)

Tmt./Selvi :

8. Meena @ Meenabai
9. Thamizharasi
10. Maithely
11. Deivanai
12. Revathi
13. Nalini
14. Vimala
15. Valli
16. Rajeswari
17. Kavitha
18. Santhi
19. Mahalakshmi
20. Saraswathy
21. Pushpa @ Veerammal
22. Jamuna @ Muniammal
23. Kannagi
24. Valli
25. Guna @ Amsaveni
26. Lakshmi
27. Deivakanni.

Versus

The Managing Director,
M/s. Dr. Miltons Laboratories Private Limited,
R.S. No. 55/3, VTK Building,
Perambai Road, Moolakulam,
Puducherry.

. . Respondent

This Industrial dispute coming on 28-02-2022 before me for final hearing in the presence of Tvl. R.T. Shankar, L.K. Saravanan, A. Ashok Kumar, B. Balamurugan and P. Suresh, Counsels for the petitioner, Tvl. B. Mohandoss, P. Manivannan, Indrajith, K. Velmurugan, K. Sundarajan, J. Kaliranthinam, S. Vijayasanthi, T. Vijayasanthi and K. Mohanapriya, Counsels 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. 38/AIL/LAB/T/2017, dated 05-04-2017 of the Labour Department, Puducherry, to resolve the following dispute between the petitioner and the respondent, *viz.*,

(a) Whether the dispute raised by Union Workmen represented by Indiya Thozhirsanga Maiyam (CITU), Puducherry against the management of M/s. Dr. Miltons Laboratories Private Limited, Puducherry, over illegal closure and non-employment of S. Arulvizhi and 26 others as listed in Annexure-I are justified or not? If, justified what relief the employees listed in Annexure -1 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 petitioner union is the only recognized union representing the employees of the respondent management. The respondent management is a Pharmaceuticals company engaged in production of medicines. The respondent management directly recruited the petition mentioned employees and appointed in various posts like Operator, Packer and Helper, *etc.*, on various dates. The employees were worked in the respondent management for more than 5 years. The respondent management has not provided statutory benefits like E.S.I, E.P.F, Uniform, Identity Card and safety materials. The respondent management has also paid less wages to the employees hence, the women employees started M/s. Dr. Milton Laboratories (P) Limited Thozhilalargal Sangam. The petitioner Union raised industrial dispute before the Labour Officer (Conciliation) for absorbing and regularizing them and providing minimum wages and all other statutory benefits.

(ii) The respondent management contended that the employees are contract employees and they are working under the contractor namely, Mr. Muthukrishnan appear before the Labour Officer (Conciliation) on 25-04-2013 and strongly objected that he never supplied any employees to the respondent management. The respondent management agreed before the Labour Officer (Conciliation) that they will initially regularize 10 employees and rest of them will be regularized periodically. The respondent management deliberately prolonged the regularization process and therefore, the petitioner Union again approached the Labour Officer (Conciliation). During the pendency of conciliation proceedings the management has shifted all the machinery from Moolakulam site to Sanniyasikuppam Village overnight and lock out the factory permanently at Moolakulam Village. The respondent illegally lock out the Moolakulam factory without informing the employees and Government Officials which is illegal. The respondent has also pasted a notice at Moolakulam factory gate on 26-04-2016 that the

factory is closed temporarily. Before the Conciliation Officer, the respondent management assured to give continuous work to the petitioners in the new factory at Sanniyasikuppam with transport facilities. Under such circumstances, the Commissioner of Labour, Puducherry, passed an Order, dated 05-08-2016 that the following workers who are members of the petitioner Union and were working in the respondent's establishment prior to the closure of the unit in question shall be reengaged into the new factory situated at the same region of Sanniyasikuppam Village, Puducherry, by the respondent management with same terms and conditions on which they had been engaged at the time of the dispute was raised.

(iii) When the petitioners went to new factory at Sanniyasikuppam they were not allowed inside by the respondent management. The employees were also assaulted by anti-social elements on the inducement of the respondent management. In the said incident happened on 09-07-2016 women workers were beaten up heavily. On 01-09-2016 the management agreed to pay salary dues for the period from May 2016 to July 2016, but, not agreed for reinstatement. When the dispute is pending before the Labour Officer (Conciliation) the respondent adamantly change the service conditions of the employees. The respondent management without giving 9-A statutory notice and without obtaining permission from the appropriate Government illegally closed the Moolakulam unit.

(iv) The petitioners were directly working in the production department and doing the perennial nature of work. The petitioners work along with permanent workers of the respondent management. The petitioners have worked for more than 240 days of service within a period of 12 calendar months. However, the respondent has not observed and regularized the petitioners for the reason best known to them. The closure of the factory without regularizing the services of the petitioners is violation of section 33 of the Industrial Dispute Act and against the principles of natural justice. The respondent management is liable to reinstate the petitioners with full back wages and continuity of service. The petitioners are not gainfully employed in any other establishment. The respondent denied the employment to the petitioners without any justifiable basis. The respondent is liable to pay wages for the period from July 2016 to till the date of reinstatement. The petitioner prays for reinstatement of the petitioner employees with continuity of service and with full back wages.

3. On the respondent side Thiru Mohandoss has filed vakalat for respondent. Since, the counter was not filed for a long time, the respondent was set *ex parte* on 06-03-2018. Further, the petitioner was not appeared before this Court for several hearings and hence, this Court has passed an order that the petition is dismissed for default on 17-10-2018. Further, as per the order in I.A. 109/2019, dated 24-02-2020 this case is restored.

4. *Points for consideration:*

Whether the petitioners are entitled for reinstatement in the respondent management with continuity of service and back wages?

5. On the petitioner side Tmt. Priya @ Shanmugapriya was examined and her chief examination affidavit was filed. Through her Ex.P1 to P13 were marked. In the evidence of PW.1 she has deposed herself and other employees were worked in the respondent management from 2007 till March 2016 and they were appointed directly by the respondent management. Since, the respondent management has not extended the statutory benefits the petitioners have formed a new Trade Union namely, M/s. Dr. Milton Laboratories Private Limited Thozhilalargal Sangam affiliated to CITU. The petitioner in her evidence further deposed that before the Conciliation Officer the respondent has agreed for the regularization of the employees of the petitioner Union but, not regularized as promised. PW.1 further deposed that the petitioner has all of a sudden shifted the factory at Moolakulam to Sanniyasikuppam and failed to give an employment to the petitioners. The respondent has also illegally declared a lock out without paying the salary dues of the petitioners properly. The factory was shifted without giving notice to the employees and without giving information to the Government Departments. The nature of work attended by the petitioners is perennial in nature and all the petitioners were worked in the respondent management for more than 240 days in each year and their employment ought to have regularized by the respondent management. The petitioners pray for reinstatement with continuity of service and back wages.

6. This Court has carefully considered the rival submission. Ex.P1 to Ex.P3 are the details of Conciliation proceedings before the Conciliation Officer on various dates. In Ex.P5 order, dated 05-08-2016 the Labour Commissioner, Puducherry, has ordered the respondent establishment to engage the petitioners in the respondent management with same terms and conditions on which they had been engaged at the time of dispute raised. Since, the Conciliation before the Labour Officer failed, the Labour Officer (Conciliation) has given failure report, dated 22-12-2016. Based on the failure report

submitted by the Labour Officer (Conciliation) the present industrial dispute was referred before this Court for adjudication. Though the respondent has entered appearance by filing vakalat the respondent was not chosen to file counter and the respondent was set *ex parte*. The averments of the petition was not contradicted by the respondent by filing counter. The respondent has not denied the employer employee relationship between the petitioner and respondent. The respondent management failed to regularized the petitioners even against the promise of the respondent made before the Conciliation Officer. The nature of work attended by the petitioner is perennial in nature. The petitioners are not gainfully employed in any other establishment from the date of lock out of the company.

7. According to the petitioners they are working for more than 240 days in every calendar year with the respondent management for several years and the non-regularization of the petitioners is nothing but, an arbitrary exercise of discretion which is not only against the principles of natural justice but, also against the established principles of law. From the above made discussion, this Court is of the considered opinion that the petitioners having served in the respondent management for several years they need to be regularized with all benefits.

8. In the result, the petition is allowed. The respondent management is directed to reinstate the petition mentioned 27 employees in the new factory situated at Sanniyasikuppam Village with continuity of service and with full back wages, and all other attendant benefits within a period of eight 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 4th day of March, 2022.

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

List of petitioner witness:

PW.1 — 28-02-2022 Tmt. Priya @ Shanmugapriya

List of petitioner's exhibits:

Ex.P1 — 29-01-2013 Photocopy of the Conciliation Proceedings.

Ex.P2 — 08-01-2016 Photocopy of the Conciliation Proceedings.

Ex.P3 — 23-05-2016 Photocopy of the Conciliation Proceedings.

Ex.P4 — 14-06-2016 Photocopy of the letter submitted by the petitioner union, before the Labour Officer, Conciliation, Puducherry.

Ex.P5 — 05-08-2016 Photocopy of the order passed by the Labour Commissioner, Puducherry.

Ex.P6 — 21-07-2016 Photocopy of the letter submitted by the petitioner union, before the Labour Officer, Conciliation, Puducherry.

Ex.P7 — 01-08-2016 Photocopy of the letter submitted by the petitioner union, before the Labour Officer, Conciliation, Puducherry.

Ex.P8 — 17-05-2016 Photocopy of the Closure letter submitted by the respondent management, before the Joint Chief Inspector of Factories, Puducherry.

Ex.P9 — 01-06-2016 Photocopy of the letter submitted by the respondent management, before the Labour Officer, Conciliation, Puducherry.

Ex.P10 — 22-12-2016 Photocopy of the Failure report submitted by the Labour Officer (Conciliation), Puducherry.

Ex.P11 — 05-04-2017 Photocopy of the reference letter issued by the Government of Puducherry.

Ex.P12 — 29-07-2016 Inspection Order or Notice issued by the Inspector of Factories to the respondent management.

Ex.P13 — 04-03-2015 Show cause notice issued by the Department of Drugs Control, Puducherry.

List of respondent's witness: Nil

List of respondent's exhibits: Nil

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