



புதுச்சேரி மாநில அரசிதழ்

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அதிகாரம் பெற்ற வெளியீடு

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பொருளடக்கம்

SOMMAIRES

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 118/AIL/Lab./T/2022,
Puducherry, dated 28th July 2022)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 48/2018, dated 25-02-2022 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the industrial dispute between Thiru S. Murugaraj, No. 17, Mari Street, Keezha Nedungadu, Karaikal, against the management of M/s. Soundararaja Spinning Mills Limited, Nedungadu, Karaikal, over reinstatement of the petitioner with full back wages, continuity of service and all other attendant benefits 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)

P. MUTHU MEENA,
Under Secretary to Government (Labour).

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

Present : Thiru R. BHARANIDHARAN, M.L.
Presiding Officer.

Friday, the 25th day of February, 2022.

I.D. (L) No. 48/2018
in
C.N.R. No. PYPY060000952018

S. Murugaraj,
No. 17, Mari Street,
Keezha Nedungadu, Karaikal. . . Petitioner

Versus

The Management,
Soundararaja Spinning Mills Limited,
Nedungadu, Karaikal. . . Respondent

This Industrial Dispute coming on 16-02-2022 before me for final hearing in the presence of Thiru N. Ramar, Representative for the petitioner and Thiruvalargal G. Jagadharaj, C. Malathi Jagadharaj and N. Gopinath,

Counsels, for the respondent, upon hearing both sides, perusing the case records, after having stood over for consideration till this day, this Court delivered the following:

AWARD

This petition is filed by the petitioners under section 2-A of the Industrial Disputes Act, praying to pass an Award to direct the respondent management to reinstate the petitioner with full back wages, continuity of service and all other attendant benefits.

2. Brief averments made in the claim Statement of the petitioner:

The petitioner employee joined in the service of the respondent establishment on 01-03-2013 and worked in guarding section. He was paid salary of ₹ 6,500 per month. On 23-04-2018 as usual the petitioner went to the company, but, the management refused to give employment to him without assigning any reasons. The petitioner represented to the management for several times, but, the management refused to give employment. Hence, the petitioner raised industrial dispute before the Labour Department on 09-08-2018. The Labour Department has not taken any steps till date regarding conciliation. The petitioner worked with respondent management for more than 5 years. The respondent management without any charges or enquiry or notice refused employment to the petitioner which is against section 25F of Industrial Disputes Act. The petitioner is suffering without any employment to run his family. The respondent management is duty bound to reinstate the petitioner with continuity of service and back wages.

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

The petitioner is a daily labourer and there is no employer and employee relationship between the petitioner and respondent. The petitioner was not employed in respondent concern from 01-03-2013 as stated by him. After, 2005 he worked as daily labourer and attend duty then and there. He was not a regular daily labourer also. The petitioner is permanently running glass works at Nedungadu town. Domestic enquiry and dismissal order are not mandatory to the petitioner since, he was daily labourer. If, the petitioner would have regularly attended duty, his services would have been regularized. He was not even employed as temporary worker. He is not a skilled worker. Since, the petitioner was absent for about a month as a daily labourer, he was not permitted to attend duty. Due to financial

constraints and loss in the business, even permanent employees are without any employment. Section 25-F of the Industrial Dispute Act, will come into play only in respect of permanent employee. The petitioner filed the present petition when the conciliation proceedings are pending and hence, the petition is not maintainable.

4. *Points for consideration :*

Whether, the petitioner is entitled for reinstatement with back wages, continuity of service and other attendant benefits in the respondent organisation?

5. The petitioner Thiruvalar Murugaraj was examined as PW.1 and his chief affidavit was filed before this Court through PW.1 and Ex.P1 to Ex.P9 was marked. In the evidence of PW.1, he has deposed that, he has joined in the respondent Mills in guarding section on 01-03-2013 and has received a sum of ₹ 6,500 per month. On 23-04-2018, when the petitioner went to attend third shift in the respondent Mills, he was prevented from attending the work without assigning any reasons. The representations given by the petitioner was not considered by the respondent management and he has preferred a complaint dated 09-08-2018 before the Labour Officer and thereby raised an industrial dispute. Since, the Labour Officer has not taken any steps, the petitioner has filed a complaint before this Court by following the amended rule 2(A) of the Industrial Disputes Act after the completion of 45 days. The petitioner further submitted that he has worked for more than 5 years in the respondent management sincerely and without blemish. If at all, the petitioner was irregular in attending his job certainly the management would have taken disciplinary action against him. There is no complaint against the petitioner in the respondent management he further deposed that the respondent management has given attendance card to the petitioner in the year 2013. Since, the income from the calendar frame shop is very meager the petitioner has obtained loan from the Bank and he has received notice of demand from the Banks for the repayment of loan amount, since, the petitioner could not repaid the loan amount within time. The respondent management has not regularized the services of any employee for the past six years hence, prayed for reinstatement with continuity of service and back wages.

6. On the respondent side Thiruvalar S. Kamaraj, Administrative H.R. Manager of the respondent management, was examined as RW.1. The chief affidavit of the RW.1 was filed before this Court. Through him Ex.R1 to R8 were marked. In the evidence of RW.1, he has deposed that the petitioner was not joined in the services of the respondent from 01-03-2013. He attended

the company after 2015 only as a casual labour with too long intervals. The petitioner was very irregular in attending the company. The petitioner services was not regularized by the management and he was not a permanent employee since, the petitioner is only a casual labour. There is no need to conduct domestic enquiry or to issue notice to him. RW.1 further, deposed that the petitioner is not a skilled labour and he does not possess any special skill. The petitioner has not attended the duty for more than one month and since he was casual labour, he was orally terminated from attending the duty. The company has huge loss and financial crunches. In such a situation does not encourage to stop the services of the casual labours. The petitioner is only a casual labour and hence, he is not entitled for the any benefits under the provisions of section 25-F of the Industrial Disputes Act, 1947. The petitioner has filed the petition to gain an illegal profit from the management. The petition was filed by the petitioner before the Conciliation report was given by the Labour Officer. The petition was filed during the pendency of Conciliation proceedings and the same is not maintainable and the petitioner is not entitled to any benefits as claimed in the petition.

7. The representative appeared for the petitioner in his vibrant arguments submitted that on 01-03-2013, the petitioner was appointed in guarding section of the respondent management for a monthly salary ₹ 6,500 per month. Without any justifiable reasons on 23-04-2018 the respondent management refused employment to the petitioner. The petitioner raised an industrial dispute before the Labour Officer, Karaikal, on 09-08-2018 and thereafter, filed the case before this Court on 08-10-2018. It was argued on the petitioner side that the petitioner has joined the services of the respondent management in the month November, 2013. Ex.P2 tickets No.0523 was issued by the respondent management in which it was mentioned that the petitioner attended duty for about 21 days. In Ex.P3 ESI Card the ESI Corporation has mentioned the date of appointment of the petitioner as 01-07-2016. In Ex.P4 EPF member Passbook wherein, opening balance was updated on 31-03-2015. The representative for the petitioner further submitted that Ex.P3 and Ex.P4 ESI Card and EPF Passbook would clearly establish the fact that the petitioner was employed as a regular worker with the respondent management even before 31-03-2015.

8. The representative for the petitioner further submitted that the petitioner was managing a small glass photo frame shop at Nedungadu Village and he would attend the shop during his leisure times. The petitioner never compromised his duty with the respondent management. It would be come to light from the evidence attendance produced by the respondent.

It is not correct to say that the petitioner was a regular absentee and he attended his job for less than ten days in a month. The petitioner was not gainfully employed anywhere except looking after his mothers glass frame work shop at his leisure time and only to pay the debts arose out of managing the shop, the petitioner has obtained loan from the Puducherry Bharathiya Grama Bank, the Bank has also issued notice for recovery of ₹ 23,000 for the repayment of SME term Loan. Ex.P8 would go to show the notice issued by the Lok Adalat for the settlement of ₹ 1,00,592 pending with Indian Overseas Bank, Nedungadu. The representative for the petitioner submit that the petitioner is directly working in the management of the respondent in guarding section. The respondent management has got supervisor and control all the work of the petitioner and he has directly received a salary from the respondent management which clearly establish the employer and employee relationship between the petitioner and the respondent.

9. The learned Counsel for the petitioner submit that the respondent management has employed the petitioner for a period of 4 years and extracted maximum work from the petitioner. After, exploiting the youthful period of the petitioner has terminated in order to avoid payment of higher wages to him. In this respect, the learned Counsel for the petitioner invited the attention of this Court to the Judgment of Hon'ble Apex Court reported in CDJ 2011 SC 832 "Labour statutes were meant to protect the employees/workmen because, it was realized that the employers and the employees are not on an equal bargaining position. Hence, protection of employees was required so that they may not be exploited. However, this new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under various labour statutes by showing that the concerned workmen are not their employees but, are the employees/workmen of a contractor, or that they are merely daily wage or short term or casual employees when in fact they are doing the work of regular employees.

This Court cannot countenance such practices any more. Globalization/Liberalization in the name of growth cannot be at the human cost of exploitation of workers".

10. The representative for the petitioner submitted that the petitioner has worked with the respondent management for a period of 240 days in each calendar year for a period of more than 5 years and hence, the petitioner is a workmen as a section 2(s) of the Industrial Disputes Act and he is entitled to benefits of section 25(F) of the Industrial Disputes Act as against the respondent management.

11. The learned Counsel for the respondent submit that at any stretch of imagination the petitioner cannot be termed as employee of the respondent management.

He is only a casual labour attended the company at long intervals without any regularity as per the Standing Orders of the respondent company, if, a labour is absent for more than one month his services can be discontinued without assigning any reasons. The learned Counsel for the respondent submit that since, the petitioner is a casual labour is not entitled to any benefits under section 25(F) of the Industrial Disputes Act. The respondent is duty bound to pay ESI and EPF contribution for casual labour also. The petitioner cannot claim that he is a permanent employee of the respondent management only on the basis of Ex.P3 ESI Card and Ex.P4 EPF member passbook. The petitioner was not provided with any appointment order and there is no terms of agreement between the petitioner and the respondent. Since, the petitioner was irregular and warnings given by the management. The respondent has decided to engage him as a casual labour thereafter.

12. The learned Counsel for the respondent submit that the petitioner is running a profitable photo frame shop in the name and style of Pushpa Glass Works and the petitioner has admitted his signature in Ex.R1 and R2 receipts. The petitioner is in the habit of regularly attend his glass frame business and only attend the respondent company during his leisure time. The respondent has clearly established that the petitioner was in gainful employment, he is not entitled for any benefits under the Industrial Disputes Act.

13. This Court has carefully considered the rival submission that the petitioner stated that he was attending the respondent company from 01-03-2013 but, the respondent management submitted that the petitioner was in employment only after 2015. On the petitioner side the Token No. 0523 issued by the respondent management was filed as Ex.P2 which was issued during November, 2013. The issuance of Ex.P2 card was not denied by the respondent. Ex.P3 ESI Card was registered on 10-08-2016 in which the date of his appointment was mentioned as 01-07-2016. Ex.P4 EPF member passbook was updated up to 31-03-2015 wherein, EPF subscription was continuously paid for the year 2015-2016, 2016-2017 and 2017-2018 up to the period of May, 2018. Ex.P3 and P4 documents go to show that the petitioner was in regular services of the respondent management.

14. The respondent has raised objection that during the pendency of Conciliation proceedings the petitioner has filed petition before this Court and hence, not maintainable. In this respect, the Gazette Publication of Puducherry, dated 11-03-2011 was marked as Ex.P5 wherein, section 2(A) stands amended "Section 2A of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:-

(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (I) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if, it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section". The above amendment to 2(A) of the Industrial Disputes Act empowers the petitioner to file the petitioner before this Court even before the culmination of Conciliation Proceedings, if, 45 days from the date of raising industrial dispute before the Labour Officer is over. The petitioner in his evidence deposed that he was employed in guarding section of the respondent management and he well versed with machinery which was taught by the respondent management. Though, the petitioner does not possess any technical qualification he was all along work in the respondent management in the guarding section. The petitioner has established that he has received sum of ₹ 6,500 as monthly salary from the respondent management. The respondent has denied the receipt of monthly salary of ₹ 6,500 by the petitioner.

15. The evidence of respondent clearly established that the petitioner has worked under the direct supervision of the respondent officials and he worked under the control of the respondent. The petitioner though termed as casual labour by the respondent he was in the services of the respondent management from 2013 till the date of his termination. The available records shows that the nature of employment is perennial in nature and the services of the petitioner was regularly and continuously utilised by the respondent management for several years. Having utilised the services of the petitioner the respondent deliberately sent him out of employment without any justifiable reasons. There was no notice of irregularity or mis-behaviour or mis-conduct served by the respondent management and no department enquiry was

conducted as against the petitioner. The nature of employment clearly established that the petitioner is an employee under the respondent company. In the Ex.P9 Standing Orders which came into force from 1966 describes only five types of workers. Under rule-II of the Standing Orders does not describe engagement of casual labours to attend the work of the respondent management as such the services of the petitioner cannot be termed as casual labours.

16. From the discussions above made this Court is of the considered opinion that the services of the petitioner was abruptly terminated by the respondent management without any justifiable reason. From the date of termination the petitioner is without job in any other establishment. This Court is also taken into consideration the glass frame shop run by the petitioner and the loan amount obtained by the petitioner from the Puducherry Bharathiyar Grama Bank and Indian Overseas Bank, Nedungadu. This Court is of the further opinion that looking after a glass frame shop with lot of debts would not come under the purview of gainful employment.

17. This Court is of the considered opinion that since, the nature of job attended by the petitioner is perennial in nature, there is difficulty for the respondent to reinstate him with continuity of service. The financial loss faced by the respondent management cannot be a justifiable reason to terminate the services of the petitioner who was in the employment of the respondent management continuously for a long period. The sudden termination of his employment would certainly affects the right to livelihood as enshrined under Article 21 of the Constitution. Since, the petitioner was terminated by the respondent abruptly, this Court is inclined to pay 50% of the back wages to the petitioner which would serve his cause.

18. In the result, the petition is partly allowed. The respondent is directed to reinstate the petitioner into service of the respondent management with continuity of service within a period of eight weeks from the date of this Award. The respondent management is further directed to pay 50% of back wages to the petitioner from the date of termination of his service till the date of reinstatement into service. No costs.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the Open Court, on this 25th day of February, 2022.

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

List of petitioner's witness:

PW.1 — 28-08-2019 Murugaraj

List of petitioner's exhibits:

Ex.P1 — 09-08-2018 Copy of the petition given by the petitioner to the Labour Officer (Conciliation).

Ex.P2 — Nov-2013 Copy of the petitioner's Identity Card issued by the respondent management to the petitioner.

Ex.P3 — 17-10-2016 Copy of the ESI Card and Receipt of the petitioner.

Ex.P4 — 17-08-2018 Copy of the EPF Member Pass book of the petitioner.

Ex.P5 — 11-03-2011 Gazette Publication of the Government of Puducherry.

Ex.P6 — 22-11-2018 Copy of Notice of enquiry issued by the Labour Officer, Karaikal.

Ex.P7 — 07-02-2019 Copy of notice issued by the Pudukkottai Bharathiyar Grama Bank to the Petitioner.

Ex.P8 — — Copy of notice sent by the Legal Services Authority to the petitioner to appear before the Lok Adalat.

Ex.P9 — 01-09-1966 Standing Orders of the respondent management.

List of respondents witness:

RW.1 — 01-10-2019 Kamaraj

List of respondents exhibits:

Ex.R1 — 31-08-2018 Receipt of Pushpa Glass house.

Ex.R2 — 01-09-2018 Receipt of Pushpa Glass house.

Ex.R3 — 09-08-2018 Copy of letter given by the petitioner to the Labour Officer, Karaikal.

Ex.R4 — 27-08-2018 Copy of Notice of Remarks sent by the Labour Officer, Karaikal.

Ex.R5 — 05-09-2018 Copy of the reply submitted by the respondent management to the Labour Officer (Conciliation), Karaikal.

Ex.R6 — 24-09-2018 Copy of Notice of Enquiry sent by the Labour Officer, Karaikal to the respondent management.

Ex.R7 — 22-11-2018 Copy of Notice of Enquiry (2nd notice) sent by the Labour Officer, Karaikal, to the respondent management.

Ex.R8 — 08-10-2018 Copy of notice sent by this Court to the respondent management.

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

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 119/AIL/Lab./T/2022,
Puducherry, dated 28th July 2022)

NOTIFICATION

Whereas, an Award in I.D (L) No. 36/2018, dated 21-03-2022 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. ICICI Bank Limited, Needarajapayar Street, Puducherry and M/s. IRIS Facility Management Global Services LLP, Hyderabad, Telangana and Tmt. S. Hema, Veerampattinam, Puducherry, over non-employment 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)

P. MUTHU MEENA,
Under Secretary to Government (Labour).

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

Present : Thiru R. BHARANIDHARAN, M.L.
Presiding Officer.

Monday, the 21st day of March, 2022.

I.D.(L). No. 36/2018

in

C.N.R. No. PYPY06-000073-2018

Tmt. S. Hema

. . Petitioner

Versus

1. The Manager,
M/s. ICICI Bank Limited,
No. 164, Needarajapayar Street,
Puducherry-605 001.
2. The Managing Director,
M/s. IRIS Facility Management Global
Services LLP,
No. 302, Ranjani Krishna Reddy Plaza,
Lakshmi Nagar, Attaur,
Hyderabad-500 048. . . Respondent

This Industrial Dispute coming on this day before me for hearing, in the presence of Thiruvallargal Ilango Krishnamoorthy and H. Sendhilkumar, Counsels, for the petitioner and Thiru A. Viveganandane, Counsel, for the respondent, upon perusing the records, this Court passed the following:

AWARD

This Industrial Dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 125/AIL/Lab./T/2018, dated 23-08-2018 of the Labour Department, Puducherry, to resolve the following dispute between the petitioner and the respondent, *viz.*, -

(i) Whether there exists any employer – employee relationship between the management of M/s. ICICI Bank Limited, Needarajapayar Street, Puducherry, M/s. IRIS Facility Management Global Services LLP, Hyderabad, Telangana and Tmt. S. Hema, Veerampattinam, Puducherry? If so, to give appropriate directions?

(ii) Whether the dispute raised by the petitioner Tmt. S. Hema, Veerampattinam, Puducherry, against the management of M/s. ICICI Bank Limited, Needarajapayar Street, Puducherry, M/s. IRIS Facility Management Global Services LLP, Hyderabad, Telangana, over non-employment is justified or not? If justified, what relief the petitioner is entitled to?

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

2. Today, when the case came up for hearing, petitioner called absent. No representation for the petitioner. Petition is pending for *ex parte* arguments for a long time. There is no progress. Hence, the reference is closed for non prosecution.

Written and pronounced by me in the open Court, on this 21st day of March, 2022.

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

புதுச்சேரி அரசு

இந்து சமய நிறுவனங்கள் மற்றும் வக்ஃபு துறை

[அரசு ஆணை பலவகை எண் 43/இசநி/கோ.3/2022/327,
நாள் 2022 (வர்பு சூலை மீ 27 வ.)]

ஆணை

புதுச்சேரி மாநிலம், புதுச்சேரி வட்டாரம், நெட்டப்பாக்கம் கொம்பியன், வருவகுப்பம், ஸ்ரீ வெங்கடேசப்பெருமான் தேவஸ்தானத்தை நிர்வகிக்கும் பொருட்டு அரசு ஆணை பலவகை எண் 13/இசநி/கோ.3/2017, நாள் 24-05-2017-ன் மூலம் நியமிக்கப்பட்ட அறங்காவலர் வாரியத்தால் நிர்வகிக்கப்பட்டு வருகிறது. இவ்வறங்காவலர் வாரியத்தின் பதவிக்காலம் முடிவடைந்துவிட்டது.

2. இந்நிலையில், மேற்குறிப்பிட்ட தேவஸ்தானத்தை நிர்வகிப்பதற்கு வேறு ஓர் புதிய அறங்காவலர் வாரியம் அமைக்க வேண்டியது இன்றியமையாதது என்று அரசால் கருதப்படுகிறது.

3. எனவே, 1972-ஆம் ஆண்டு, புதுச்சேரி, இந்து சமய நிறுவனங்கள் சட்டம் 4(1)-ஆம் பிரிவின்கீழ் வழங்கப்பட்டுள்ள அதிகாரங்களைச் செலுத்தி, புதுச்சேரி மாநிலம், நெட்டப்பாக்கம் கொம்பியன், வருவகுப்பம், ஸ்ரீ வெங்கடேசப்பெருமான் தேவஸ்தானத்திற்கு கீழ்க்கண்ட ஐந்து நபர்களைக் கொண்ட ஓர் புதிய அறங்காவலர் வாரியத்தை அரசு உடனடியாக அமைக்கிறது.

திருவாளர்கள் :

(1) ப. கோவிந்தப்பன், . . தலைவர்
த/பெ. பலராம நாயுடு,
எண் 18A, மாரியம்மன் கோயில் வீதி,
வருவகுப்பம்,
புதுச்சேரி-605 106.

(2) க. குப்புசாமி, . . துணைத்
த/பெ. கண்ணன், தலைவர்
புது நகர்,
வருவகுப்பம்,
புதுச்சேரி-605 106.