



புதுச்சேரி மாநில அரசிதழ்

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பொருளடக்கம்

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 36/AIL/Lab./T/2022,
Puducherry, dated 1st March 2022)

NOTIFICATION

Whereas, an Award in I.D. (T) No. 04/2016, dated 08-10-2021 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the Industrial Dispute between the management of M/s. Shoney Scientific India, Puducherry and the employees Thiru N. Karunakaran and 23 others as listed in the Annexure-I, over illegal closure 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.

Friday, the 8th day of October 2021.

I.D. (T) No. 04/2016

in

C.N.R. No. PYPY060000372016

1. N. Karunakaran
2. M. Ezhumalai
3. A. Mounissamy
4. P. Lakshmi
5. A. Albert
6. K. Sunitha
7. S. Aroumougam
8. Tangaraj
9. S. Srinivasan
10. S. Kanchana
11. L. Mugilan
12. P. Selvi

13. P. Prema
 14. S. Shakila
 15. S. Kala
 16. P. Pushpavalli
 17. D. Logeshwari
 18. B. Vijayalakshmi
 19. M. Stella
 20. S. Annalakshmi
 21. S. Dhanalakshmi
 22. R. Manimozhi
 23. K. Kanagam
 24. A. Sasikala
- All are members of Shoney
Scientific India Thozhilalar Nala
Sangam, Reg. No.1814/TRU/2016
No. 22, Chettikulam Street,
Thiruvalluvar Nagar, Puducherry. . . Petitioners

Versus

The Managing Director,
M/s. Shoney Scientific India,
A30/B, Industrial Estate,
Thattanchavady, Puducherry. . . Respondent

This Industrial Dispute coming on 14-09-2021 before me for final hearing in the presence of Thiruvalargal P.R. Thiruneela Kandan and A. Mithun Chakravarthy, Counsels for the petitioners and Thiru Law Solvers, Counsel for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court delivered the following:

AWARD

This Industrial Dispute has been referred by the Government of Puducherry as per the G.O. Rt. No. 96/AIL/Lab./T/2016, dated 19-10-2016 for adjudicating the following:-

(a) Whether the dispute raised by the employees N. Karunakaran and 23 others against the management of M/s. Shoney Scientific India, Puducherry, over illegal closure is justified or not? If justified, what relief the employees are entitled to?

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

2. *The case of the petitioner, in brief, are as follows:*

The petitioners are workmen working in the respondent company for more than 24 years. The respondent management is giving only meager wages

to the petitioners. The petitioners are not getting any benefits contemplated under labour laws. The workman who were attempted to form Trade Union were victimized and denied employment by the respondent. In the year 2015 the petitioners have started Shoney Scientific India Thozhilalar Nala Sangam on 30-09-2015 the petitioners have presented their application before the Registrar of Trade Union for the registration of their newly formed Trade Union. The members of the Union were threatened by the respondent management. The respondent management without any prior notice suspended the production and denied employment to the petitioners. The respondent issued closure notice on 30-01-2016, the respondent stated that due to market condition and inadequate orders to carry out the manufacturing activities, close down the factory. The respondent still running the same line of business, the closure of respondent factory is not real. In order to terminate the workers and thereby prevent them to form new Trade Union the act of the respondent is unfair labour practice as defined under Schedule 5 of the Industrial Disputes Act, 1947. The respondent has issued closure notice under section 25FFA of the Industrial Disputes Act and the respondent has not given 60 days prior notice as contemplated in the said section.

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

The respondent is the proprietorship concern engaged in manufacturing medical devices from the year 1987. The respondent decided to close down the business in January 2016 due to cut throat competition in the market, declining orders and shifting of orders to other company. The customers of the respondent company suddenly stopped the purchase from respondent company. More number of manufacturers entered in the market with cheaper products the failure of the company did not seem sustainable. The respondent management left with no other alternative close down the factory with effect from 31.01.2016. The respondent has notified the decision of closure to all statutory authorities as provided under Industrial Disputes Act, 1947. The respondent has also paid full and final settlement of the dues to all workmen and credited the same in their salary account. The notice of closure was communicated to the workmen. The workmen approached the Labour Officer for Conciliation, but, the Conciliation ended in failure, there were 50 employees working in the respondent company for which the respondent has categorically followed the procedure as such the closure of the factory is not illegal and the petitioners are not entitled for any relief as prayed for.

4. *The points for consideration are:*

(1) Whether the closure of respondent factory is legal and justified?

(2) Whether the petitioners are entitled for any monetary benefits?

5. PW1 Thiru Karunakaran deposed that himself and others 23 petitioners were illegally denied the employment with effect from 31-01-2016. The averments stated in the claim statement may be treated as part and parcel of the proof affidavit. The petitioner has filed Ex.P1 to Ex.P21. This Court already put brief averments of the claim statements in the earlier paragraphs of the order. RW1 in his evidence deposed that the respondent is the proprietorship concern engaged in the business of manufacturing medical devices since 1987 with 35 employees. Due to cut throat competition in the market and three major customers has shifted to place orders to other companies and there was also new manufactures ventured in this field. The management has no other alternative except to close down the Unit irrevocably. To this effect the management has notified its decision on 31-01-2016 to the statutory authorities and also to the workmen. The workmen has approached the Labour Officer (Conciliation) and raised the Industrial Dispute by the representation, dated 02-02-2016, but, the Conciliation ended in failure. The respondent has duly complied with the procedure contemplated under Industrial Disputes Act closure of undertaking were employees are less than 50 workers. The respondent has also deposited the monetary entitlements to the petitioners on the date of closure. The closure of the factory of the respondent with effect from 31-01-2016 is not illegal and there was no unfair labour practice on the part of the respondent.

6. The learned Counsel for the petitioner submit that PW1 along with 23 other workers where in continuous employment in the respondent company for more than 24 years. The respondent has paid only meager wages and has not followed the Industrial Dispute Act and other Labour Laws. When the petitioner started Union for collective bargaining with the respondent, the same was described by the respondent and the workmen were threatened by the management. While so the respondent issued closure notice on 30-01-2016 without following the procedure contemplated in Industrial Dispute Act. The respondent has pressurized some of the workmen to accept the settlement. The learned Counsel for the petitioner submit that the respondent has shifted the machineries and raw materials to some other places and still doing the same line of business.

7. It is further submitted even before the Labour Officer Conciliation the respondent was not co-operated hence, the Conciliation ended in failure. The petitioners have made several representations to the Enforcement Officer, Labour Department, Puducherry, the Commissioner, Labour Department, Puducherry, the Factories Inspector in Puducherry on various dates to redress the grievances. When the respondent removed the machineries and raw material from the factory premises the petitioner has given complaint to the Inspector of Police, D'Nagar Police Station. The respondent has not followed section 25 FFA of Industrial Dispute Act and the closure of factory without following the procedure amounts to illegal closure and prayed for re-instatement of the petitioners along with all entitlements.

8. The learned Counsel for the respondent submit that the respondent is a proprietorship concern engaged in manufacturing medical devices. Its business is mainly based on three major customers. Due to decline in shifting orders and the major customers placed the orders with some other companies. The respondent suffered a lot and the situation cannot be reviving back. When the situation is beyond the control of the employer, he has issued closure notice on 31-01-2016 and on same day the statutory entitlements of the petitioners were deposited in their salary accounts. Since the respondent company is working with less than 50 number of workers, the respondent has got exempted from following the principles laid down in section 25 FFA of the Industrial Disputes Act. The learned Counsel for the respondent submit that the respondent never started a company elsewhere and the contention of the petitioner to this effect is totally false and fictitious. It is further submitted that out of 35 members 10 number of employees has accepted the settlement and received their amounts. The receipt signed by the employees were marked as Ex.R12 to R22. The respondent has given statutory notice to the Director, Department of Industries to cancel their registration. The respondent also sent notice to the Commissioner, Oulgaret Municipality and Department of Commercial Taxes Officer, Government of Puducherry on 30-01-2016. The respondent has sent closure report to the Secretary to the Government of Puducherry which was received by them on 01-02-2016. To satisfy the requirements of law the respondent has also sent individual closure notice to all the petitioners and acknowledgments were marked as Ex.R1 series. The respondent having a right to start the business also having a right to close down the business when the circumstances is beyond his control. The only thing is the respondent has to follow the procedure contemplated under law in present case. The respondent management

has strictly followed the procedure and also deposited the compensation amount in the account of the petitioners as such there is no illegality in the closure of the factory.

9. This Court has carefully considered the submission made by the petitioners and on the side of the respondent management. PW1 Karunakaran and 23 others have raised the Industrial Dispute which is referred to this Court for adjudication. When the petitioners has started Shoney Scientific India Thozhilalar Nala Sangam and has attempted to register the same with the Registrar of Trade Union, the respondent has closed his business to victimize the petitioners is the allegation levelled by the petitioners. It is contended that the petitioner side without any prior notice the respondent suspended production and denied employment to the petitioners. The respondent has issued notice on 31-01-2016 for closure of the factory with effect from 31-01-2016. From the evidence of PW1 it is clear that on 30-01-2016 when they went to the company notice in Form Q was pasted in the company main gate. On the perusal of the records it is seen from the Ex.P1 that Shoney Scientific India Thozhilalar Nala Sangam, Puducherry was registered on 25-10-2016. There is no proof filed by the petitioners that the company was closed by the respondent as a vindictive measure since the petitioners attempted to start Union.

10. It is clear from RW1 Thiru Rajesh Shoney that on 31-01-2016, he has declared the closure of the factory since, they were unable to get the required order from the major customers and also the customers has placed the orders with some other companies. Since, the present market condition indicates impossibilities to bring back on profitable line and there is no adequate orders and there is no likelihood of revival of the factory in future. It is clear in Ex.R1 notice, dated 31-01-2016 the salary for the month of January of 2016 notice pay under section 25 FFA of Industrial Disputes Act, closure compensation, gratuity proportionate bonus from October 2015 to January 2016 and leave encashment wherever applicable has calculated and deposited in the salary account of all the employees which is submitted by the PW1. The respondent has also issued R3 and R4 notice to all the statutory authorities.

11. From the evidence of PW1 Karunakaran, it is clear that there are only 35 employees working in the respondent company under section 25 FFA "1. An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in the prescribed manner, on the appropriate Government

stating clearly the reasons for the intended closure of the undertaking: Provided that nothing in this section shall apply to:

(a) an undertaking in which

(i) less than fifty workmen are employed, or

(ii) less than fifty workmen were employed on an average per working day in the preceding twelve months,

(b) an undertaking set up for the construction of building, bridges, roads, canals, dams or for other construction work or project.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, if, it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order”.

12. Since, the respondent company has got exemption under section 25 FFA, the retrenchment compensation has to be paid as per clause B of section 25 of Industrial Disputes Act which shall not exceed his average pay for three months. No doubt, while effecting retrenchment it is obligatory on the part of the employer to pay retrenchment compensation. The employer has to follow the procedure contemplated under Industrial Disputes Act such as the workmen must be informed about the decision of retrenchment notice must be given to the workmen stating the reason for closure and the workmen must be compensated at the time of retrenchment. As per the Ex.P1 all the employees were given notice about closure along with reason for closure. The notice was also pasted on the main gate of the factory premises. The respondent has deposited the monetary entitlements to all the petitioners in their salary account. About ten number of employees has accepted the settlement and has signed in the receipt which is marked as Ex.R12 to R22. The notice of closure along with reason for closure was communicated to all the statutory authorities. During the pendency of the case petitioner P7, P14 and P21 are not contesting the case which is admitted by PW1.

13. The reasons for closure of the factory as stated by the respondent is that there is a decline in getting the orders and the major customers were placing their orders with some other companies and due to the present market condition which indicates impossibility to bring back the company on profitable line and since

there was no likelihood to review the business in the near future, the respondent has taken a decision of closing down the business. This Court is of the considered opinion that the reason stated for closure of the factory is acceptable. The petitioners failed to prove that the respondent has started another company on the same line. The petitioners have also failed to prove that the respondent has engaged in unfair labour practice. From the discussions above made, this Court is of the considered opinion that the respondent M/s. Shoney Scientific India, closing its factory is justified and there is no illegality. The respondent has already paid the monetary entitlements with the salary accounts of the petitioners.

14. In the result, the petition is dismissed. No costs.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the Open Court on this the 8th day of October, 2021.

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

List of petitioner's witness:

PW.1 — 06-12-2017 N. Karunakaran

List of petitioner's exhibits:

Ex.P1 — 25-10-2016 Copy of the Certificate of Registration of Trade Union.

Ex.P2 — 30-01-2016 Copy of respondent closure notice.

Ex.P3 — 01-02-2016 Copy of petitioner's letter to the Conciliation Officer.

Ex.P4 — 02-02-2016 Copy of petitioner's letter to the Conciliation Officer.

Ex.P5 — 02-02-2016 Copy of petitioner's letter to the Respondent Management.

Ex.P6 — 08-02-2016 Copy of petitioner's letter to the Labour Commissioner.

Ex.P7 — Copy of Complaint copy of O.S. No. 617/2016.

Ex.P8 — 11-04-2016 Copy of petitioner's letter to the Conciliation Officer.

Ex.P9 — 04-05-2016 Copy of petitioner's letter to the Conciliation Officer.

Ex.P10	—	09-02-2016	Copy of Conciliation Notice.
Ex.P11	—	11-04-2016	Copy of respondent reply to the Labour Officer Conciliation.
Ex.P12	—		Copy of petitioner's letter to the Lieutenant-Governor.
Ex.P13	—	11-07-2016	Copy of petitioner's letter to the Enforcement Officer.
Ex.P14	—	11-07-2016	Copy of petitioner's letter to the Labour Commissioner.
Ex.P15	—	11-07-2016	Copy of petitioner's letter to the Chief Inspector of Factories.
Ex.P16	—	11-07-2016	Copy of petitioner's letter to the Labour Commissioner.
Ex.P17	—	31-08-2016	Copy of petitioner's letter to the Conciliation Officer.
Ex.P18	—	12-09-2016	Copy of petitioner's letter to the Station House Officer, D'Nagar Police Station.
Ex.P19	—	15-09-2016	Copy of petitioner's letter to the Labour Commissioner.
Ex.P20	—	30-09-2016	Copy of petitioner's letter to the Labour Commissioner.
Ex.P21	—	21-09-2016	Copy of Conciliation Failure Report.

List of respondent's witness:

RW.1 — 19-11-2019 Rajesh Shoney

List of respondent's exhibits:

Ex.R1	—		Acknowledgment Cards (1 to 30 Nos.)
Ex.R2	—	30-01-2016	Copy of the notice of Closure displayed by the management to the main gate of the factory.
Ex.R3	—	02-02-2016	Original document of the notice of Closure issued by the management to the Chief Inspector of Factories, Labour Department.

Ex.R4	—	02-02-2016	Copy of the notice of closure issued by the management to the Social Security Officer ESI Corporation, Pondicherry.
Ex.R5	—	02-02-2016	Copy of the notice of closure issued by the management to the Enforcement Officer, EPF, Pondicherry.
Ex.R6	—	09-02-2016	Original document of the notice of Enquiry issued by the Labour Officer (Conciliation) to the management.
Ex.R7	—	02-02-2016	Copy of the representation filed by the Trade Union, before the Conciliation Officer.
Ex.R8	—	11-04-2016	Copy of the reply filed before the Conciliation Officer by the management.
Ex.R9	—	01-02-2016	Copy of the Postal Acknowledgment Card of the Secretary to Government (Labour).
Ex.R10	—	01-02-2016	Copy of the Postal Acknowledgment Card of the Commissioner of Labour.
Ex.R11	—	01-02-2016	Copy of the Postal Acknowledgment Card of the Labour Officer (Conciliation).
Ex.R12	—	30-01-2016	Original document of the Full and Final Settlement receipt issued by the worker K. Devaki.
Ex.R13	—	30-01-2016	Original document of the Full and Final Settlement receipt issued by the worker S. Dhanalakshmi.
Ex.R14	—	30-01-2016	Original document of the Full and Final Settlement receipt issued by the worker S. Aroumougam.
Ex.R15	—	30-01-2016	Original document of the Full and Final Settlement receipt issued by the worker S. Josephine.

- Ex.R16 — 30-01-2016 Original document of the Full and Final Settlement receipt issued by the worker A. Calaiselvy.
- Ex.R17 — 30-01-2016 Original document of the Full and Final Settlement receipt issued by the worker B. Kalaiselvi.
- Ex.R18 — 30-01-2016 Original document of the Full and Final Settlement receipt issued by the worker P. Anitha.
- Ex.R19 — 30-01-2016 Original document of the Full and Final Settlement receipt issued by the worker G. Prabu.
- Ex.R20 — 30-01-2016 Original document of the Full and Final Settlement receipt issued by the worker G. Abiramy.
- Ex.R21 — 30-01-2016 Original document of the Full and Final Settlement receipt issued by the worker Kanakabhuzham.
- Ex.R22 — 30-01-2016 Original document of the Full and Final Settlement receipt issued by the worker S. Shakila.
- Ex.R23 — 07-04-2016 Copy of the letter by the respondent to the Director, Department of Industries, Government of Puducherry to Cancel the Registration.
- Ex.R24 — 25-04-2016 Original document of the Letter by the Respondent to the Commissioner, Oulgaret Municipality to de-register the Licence.
- Ex.R25 — 25-04-2016 Copy of the letter by the respondent to the Deputy Commercial Tax Office, Pondicherry to cancel the VAT Registration Certificate.
- Ex.R26 — Copy of the Closure Report Code No. PC/TB/PDY/0000703000 by the Management.

- Ex.R27 — 30-01-2016 Original document of the Notice of Closure issued by the Management to the Labour Authorities, dated 30-01-2016 in Q Form.

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

GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT

*(G.O. Rt. No. 28/Lab./AIL/T/2022
Puducherry, dated 25th February 2022)*

NOTIFICATION

Whereas, the Government is of the opinion that an industrial dispute has arisen between “M/s. Chemin C & I Thozhilalar Nala Sangam, (Registration No. 1884/RTU/2021)”, and the management of M/s. Chemin C & I Private Limited, Puducherry, over reduction of leave in respect of the matter mentioned in the Annexure to this order;

And whereas, in the opinion of the Government, it is necessary to refer the said dispute for adjudication;

Now, therefore, by virtue of the authority delegated *vide* G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991 of the Labour Department, Puducherry, to exercise the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), it is hereby directed by Secretary to Government (Labour) that the said dispute be referred to the Industrial Tribunal, Puducherry, for adjudication. The Industrial Tribunal, Puducherry, shall submit the Award within 3 months from the date of issue of reference as stipulated under sub-section 2-A of section 10 of the Industrial Disputes Act, 1947 and in accordance with rule 10-B of the Industrial Disputes (Central) Rules, 1957. The party raising the dispute shall file a statement of claim complete with relevant documents, list of reliance and witnesses to the Industrial Tribunal, Puducherry, within 15 days of the receipt of the order of reference and also forward a copy of such statement to each one of the opposite parties involved in the dispute.

ANNEXURE

- (a) Whether the dispute raised by the petitioners Union “M/s. Chemin C & I Thozhilalar Nala Sangam, (Registration No. 1884/RTU/2021)”, against the