



புதுச்சேரி மாநில அரசிதழ்

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 09/AIL/Lab./T/2023,
Puducherry, dated 24th January 2023)

NOTIFICATION

Whereas, an Award in I.D (L) No. 09/2020, dated 12-12-2022 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of Dispute between the Tmt. K. Hemamalini, Villianur, Puducherry against the management of M/s. DXN Manufacturing (India) Private Limited, Thiruvandar Koil, Mannadipet Commune, Puducherry, over non-employment and compensation of ₹ 7,00,000 with 24% interest 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. 20/9/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.

(By order)

P. RAGINI,

Under Secretary to Government (Labour).

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

Present : Tmt. V. Sofana Devi, M.L.
Presiding Officer.

Monday, the 12th day of December, 2022.

I.D. (L) No. 09/2020
C.N.R. No. PYPY06-000041-2020

K. Hemamalini,
No. 7, Third Cross Street,
First Main Road,
Puducherry-605 110. . . Petitioner

Vs.

The Managing Director,
M/s. DXN Manufacturing (India) Private Limited,
R.S Nos. 141/4 and 142/5, Whirlpool Road,
Thiruvandar Koil, Mannadipet Commune,
Puducherry-605 102. . . Respondent

This Industrial dispute coming on 07-11-2022 before me for final hearing in the presence of Thiruvalargal S. Nagarajan and A.P. Ilangovan, Counsels for the Petitioner, Thiruvalargal L. Sathish, S. Velmurugan and

E. Karthik, Counsels for the Respondent, Reported No Instruction, Court Notice sent and same served on the Respondent, Respondent remained *ex parte* and after hearing the Petitioner side and perusing the case records, this Court delivered the following:

A W A R D

This Industrial Dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 78/AIL/Lab./T/2020, dated 15-07-2020 of the Labour Department, Puducherry to resolve the following dispute between the Petitioners and the Respondent, *viz.*,

(a) Whether the dispute raised by the Petitioner Tmt. K. Hemamalini, Villianur, Puducherry against the Management of M/s. DXN Manufacturing (India) Private Limited, Thiruvandar Koil, Mannadipet Commune, Puducherry over non-employment and compensation of ₹ 7,00,000 with 24% interest is justified or not? If justified, what relief the Petitioner is entitled to?

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

2. Brief facts of the case of the Petitioner:

The Petitioner Workman was joined as operator in the Respondent Management company on 01-04-2002 and the Petitioner kept maintained her good conduct and best service to the fullest satisfaction of the Respondent Management being a regular employee ever since of joining to the employment as operator under the Respondent Management. The Respondent company was engaged in manufacturing a herbal capsules in the name and style of "R.G. & G.L." and being a multinational company was having surge of customers over the world for the reason of the health product of the Respondent company.

(ii) The Respondent Management was engaged more than 60 employees in a shift per day for manufacturing process and apart from other employees for operational purpose. Few employees among other were taken effort for formation of Union in the year 2006 and by name "DXN Herbal Manufacturing (India) Private Limited Labour Union". 17 employees were targeted by the Respondent Management for pangs of death *i.e.*, victimization for the sole reason that they were being stubborn to membership to the said Union. 17 employees were terminated from service without any valid cause and reason except their bare eager for membership into the Union. The said dispute was referred to Labour Officer, Conciliation from time to time.

(iii) On 01-03-2011 at about 05.30 p.m the Respondent Management was surprisingly displaced a notice on the board that "The Office of Management will not function from 02-03-2011 and the services of notice mention employees are not required from 02-03-2011 and their terminal benefits will be settle down on 08-03-2011 at the Office". The statutory machineries *viz.*, the Labour Commissioner and Conciliation Officer took cognizance upon the unlawful act the Respondent Management immediately. The Respondent Management was failed to appear before the officials many hearing and bluntly ignored them. On around 08-04-2011, the Respondent Management filed its counter before the Conciliation Officer in respect of the said Industrial Dispute. *Vide* the said counter, the Respondent Management stated that due to certain unavoidable circumstances had forced the Management to cease to run the factory and in view the Management has proposed to transfer the staff and their workmen to Himachal Pradesh unit.

(iv) Some of the employees filed a civil suit *vide* O.S. No. 45/2011 before the Sub Court, Puducherry against the Respondent Management and won the suit *vide* Judgment and decree, dated 12-04-2012. In view of the vengeance target the Respondent Management assailed a baseless allegation against the Petitioner *vide* charge-sheet, dated 02-01-2010 and 29-06-2010 for the reason of slow down the work. A similar charge-sheet was launched upon many employees who showed their sheer inclination for membership into the Union. Apart from the said issue was got the shape of Industrial Dispute before this Court *vide* I.D.No. 21/2011 and I.D.No. 10/2020. In fact the present Petitioner was party to the Industrial Dispute I.D.No. 10/2020. Whilst pending the above disputes before this Court, the Respondent Management desired for tripartite agreement under section 12(3) of Industrial Disputes Act so as to evade and escape from the stringent liabilities for illegal closure of the company and illegal termination of the employees including non-employment, *etc.*

(v) Accordingly on 04-12-2017, a settlement under section 12(3) arrived between the Respondent Management and its labour Union in the presence of the Labour Commissioner. A final settlement including terminal benefits was decided for all the employees as a compensation measure against the illegal closure, non-employment, termination, unfair labour practice, victimization *etc.* In view of arrival of settlement the Respondent Management was uniquely decided to cease the service of employees against the amount agreed for compensation towards the employees.

Accordingly an amount of ₹ 3,50,000 (Rupees three lakhs fifty thousand only) was decided as compensation quantum for each employees irrespective of their status. The requisite condition for the said settlement was cessation of employment of all employees against the effect of illegal closure and the Management was not intent to reopen the said factory forever.

(vi) Whereas the present nomenclature as to refusal for employment with the Respondent Management @ ₹ 3,50,000 as compensation and who are willing to continue the service similar to the Petitioner was paid nothing. Hence the discriminative classification for settlement of compensation among the employees who were set to same foot for same dispute upon same issue but the ramified amount for compensation among the employees was irrational and illogical.

(vii) The Petitioner opted to continue service with Respondent Management. However, the Petitioner was not in a position to join and report duty *in lieu* of the 12(3) settlement against her personal inconvenience upon her 17 year old daughter was supposed to stay alone at home when the Petitioner is about to report duty as directed by the Respondent Management. Pertinently the Petitioner was very recently shifted her rented home almost 15 kilometers away from the erstwhile home. Apart from that the Petitioner was lone lady to care and cater her 17 years old daughter since her husband was in employment out of the state. Accordingly *vide* letter, dated 21-12-2017, the Petitioner requested time for same. However *vide* letter, dated 28-12-2017, the Respondent Management informed the Petitioner that merely 5 days only would be given to join and report duty and in case of her failure within the set time the Management would consider that she is not interested to continue as its employee and resigned the job. In addition Respondent Management sought the bank details of the Petitioner to deposit the one time compensation/terminal benefits @ ₹ 40,000.

(viii) As a response to the Respondent Management's letter content, the Petitioner submitted her letter, dated 02-01-2018 for seeking one month time for joining duty. The Respondent Management was not in function yet then *in lieu* of the 12(3) settlement, dated 04-12-2017 for the reason that the Respondent Management and the factory unit was completely closed down for more than 7 years continuously. The Respondent Management was stepped into the shoes of various authorities for sanctioning the orders to resume the work at the closed factory premise *viz.*, the electricity, water, municipal tax, environmental clearance, underground water, measuring the safety clearance *etc.*

(ix) The letter, dated 09-01-2018 refused the request of the Petitioner for one month time and allowed just days time to join the duty. The Petitioner had exposed her uncontrollable situation and against which she sought considerable time around one month *vide* letter dated 02-02-2018 to the Respondent Management. Whereas against receipt of the above letter from the Petitioner, the Respondent Management *vide* its letter, dated 02-02-2018 by terminating the Petitioner from the employment along with a Demand Draft bearing No. 078389 dated 01-02-2018 for ₹ 40,000 as one time compensation/terminal benefit. The Petitioner was insisted to receive the said termination letter by the Respondent Management along with the Demand Draft. But, the Petitioner was however refused the termination letter and the Demand Draft unlawfully assailed by the Respondent Management. But with no option against irksome insistence of the Respondent Management, the Petitioner received the same with objection as to no prejudice to her legal rights upon litigation lie on the cause of action for the present Industrial Dispute.

(x) The pre mediated decision of the Respondent Management for terminating her employment by ceasing the employment and loosing the *lieu* over employment in an unjust and unlawful manner pertinently *in lieu* of effect of 12(3) settlement, dated 04-12-2017 between the Management and its Labour Union after long illegal closure and illegal termination of the employment of the employees. In precise the act of the Respondent Management is shear victimization to the Petitioner and her employment rights as per Industrial Dispute Act.

(xi) The letter, dated 18-05-2018 the Petitioner submitted an appropriate complaint as to the Industrial Dispute before the Labour Officer (Conciliation), Puducherry with the request for reinstatement to the employment with compensation of ₹ 7,00,000. The Respondent Management *vide* letter, dated 10-05-2019 replied to the Labour Officer (Conciliation) upon the Industrial Dispute of the Petitioner and through with stoutly refused the demands of the Petitioner and sought a failure report from the Conciliation Officer. Against which a reply by the Petitioner *vide* letter, dated 05-08-2019 was submitted before the Labour Officer (Conciliation).

(xii) The Labour Officer (Conciliation) *vide* his proceedings No. 740/LO(C)/AIL/018, dated 16-03-2012 submitted the failure report upon the Industrial Dispute raised by the Petitioner *vide* her petition, dated 18-05-2018.

(xiii) An illegal termination of the Petitioner's employment by the sole Respondent herein pertinently without conducting even a domestic enquiry against the Petitioner who infact was regular employee working since, 01-04-2002 *i.e.*, for more that 15 years. The Petitioner was drawn her wage around ₹ 6,500 after deducting the admissible contribution *viz.*, the ESI, the P.F *etc.*, before the effect of the 12(3) settlement, dated 04-12-2017. Whereas ₹ 10,500 was fixed as her wage *in lieu* of the 12(3) settlement, dated 04-12-2017 apart from other allowances admissible under the Respondent Management from time to time. Hence, the claim for the reinstatement.

3. Respondent Company was set *ex parte* on 11-08-2022.

4. *Point for determination:*

Whether the Petitioner Workman is entitled for the prayer of reinstatement and compensation of ₹ 7,00,000 with 24% interest as prayed in the Claim Petition?

5. *On the Point:*

Respondent counsel reported no instruction on 20-07-2022. Court notice ordered and served on the Respondent. Since service sufficient, Respondent called but not appeared on 11-08-2022. Hence, Respondent Management set *ex parte*. Proof affidavit of the Petitioner filed and Ex.P1 to P11 marked.

6. Heard the Petitioner counsel. Perused the case records and Ex.P1 to P11 marked on the side of the Petitioner.

7. The prayer in the Industrial Dispute is for reinstatement with back wages and other benefits along with the compensation of ₹ 7,00,000 with 24% interest over the illegal termination and non-employment of the Petitioner with cost. According to the Petitioner, in I.D.No. 21/2011 and I.D.No. 10/2020 in which the Petitioner was the party. Pending above said IDs, Management and Labour Union entered into a settlement under section 12(3) on 04-12-2017 in the presence of Labour Commissioner. In view of the settlement, the Respondent Management agreed for compensation of ₹ 3,50,000 for cessation of employment of employees against the effect of illegal closure and the Management was not intended to reopen the factory for work. But the employees who are willing to continue the service including the Petitioner was paid nothing. The discriminative classification for settlement of compensation among the employees who were on the same position but refused the compensation among the employees was irrational and illogical.

8. According to the Petitioner, she opted to continue the service with Respondent Management and not in a position to join immediately due to her personal inconvenience. The same was informed to the Management *vide* her letter, dated 21-12-2017 requesting time for joining. The Respondent Management granted only 5 days time for reporting duty *vide* its letter, dated 28-12-2017. Again the Petitioner *vide* her letter, dated 02-01-2018 sought for one month time for joining the duty. The Respondent Management refused the request *vide* letter dated 09-01-2018 but given 5 days time for joining duty. Again the Petitioner sought one month time to the Respondent Management *vide* her letter 02-02-2018. Whereas, the Respondent Management *vide* its letter, dated 02-02-2018 had terminated the Petitioner from the employment with the Demand Draft, dated 01-02-2018 for ₹ 40,000 as one time compensation/terminal benefits. The Petitioner has received the same with objection. The above decision of the termination of the Respondent Management is pre-mediated decision and against the 12(3) settlement. The Petitioner had approached the Labour Officer Conciliation. The Respondent Management filed their objections, dated 10-05-2019.

9. It is submitted by the Petitioner Counsel that ₹ 10,500 was fixed as her wage *in lieu* of the 12(3) settlement dated 04-12-2017 apart from other allowances admissible under the Respondent Management from time to time.

10. Though the Petitioner has agreed to join the Respondent Management but she could not make it immediately due to her personal inconvenience. This version of the Petitioner has not been rebutted by the Respondent Management. When Respondent Management had disbursed ₹ 3,50,000 to the employees those who quit the job as per the Settlement under section 12(3) of the Industrial Disputes Act, in absence of any rebuttal pleadings, evidence and proof, this Court is not in a position to reject the claim of the Petitioner. But, at the same time, this Court is not inclined to order the relief as such claimed by the Petitioner in this claim petition in toto. On considering the facts and circumstances, this Court finds that before the closure, the Petitioner had received ₹ 6,500 as Wage after all deductions. Hence, taking into account as per the 12(3) settlement though the Petitioner has agreed to join the Respondent Management but she could not make it immediately due to her personal inconvenience, it is just and proper that if ordered the same compensation of ₹ 3,50,000 which was paid by the Respondent Management to the employees those who quit the job, be paid to the Petitioner herein with accrued interest. Since, ₹ 40,000 already paid to the Petitioner Workman, the same shall be deducted from the said compensation. Thus the point for determination is decided accordingly.

11. In the result, the Reference is justified and the Industrial Dispute is partly allowed with the effect that the Respondent Management is hereby directed to pay ₹ 3,10,000 (Rupees Three lakhs and ten thousand only) which was paid by the Respondent Management to the employees those who quit the job, to the Petitioner herein with accrued interest at the rate of 9% from the date of their job cessation *i.e.*, 02-02-2018 till the date of this Award and thereafter 6% from the date of the Award till the date of realization. Other Claims claimed by the Petitioner in the claim petition is rejected. No costs.

Dictated to the Stenographer, directly typed by him, corrected and pronounced by me in open court on this the 12th day of December, 2022.

V. SOFANA DEVI,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witness:

PW1 — 14-09-2022 Tmt. Hemamalini

List of petitioner's exhibits:

Ex.P1 — 21-12-2017 Photocopy of the letter by the Petitioner to the Respondent.

Ex.P2 — 28-12-2017 Photocopy of the letter by the Respondent to the Petitioner.

Ex.P3 — 02-01-2018 Photocopy of the letter by the Petitioner to the Respondent.

Ex.P4 — 09-01-2018 Photocopy of the letter by the Respondent to the Petitioner.

Ex.P5 — 02-02-2018 Photocopy of the letter by the Petitioner to the Respondent.

Ex.P6 — 02-02-2018 Photocopy of the Letter by the Respondent to the Petitioner intimating job cessation.

Ex.P7 — 01-02-2018 Photocopy of the Demand Draft No. 078389 (Axis Bank).

Ex.P8 — 18-05-2018 Original document of the Industrial Dispute complaint of the Petitioner before the Labour Officer (Conciliation).

- Ex.P9 — 10-05-2019 Photocopy of the reply of Respondent Management before the Labour Officer (Conciliation).
- Ex.P10 — 05-08-2019 Photocopy of the re joinder of the Petitioner before the Labour Officer (Conciliation).
- Ex.P11 — 04-12-2017 Photocopy of the 12(3) Settlement.

List of Respondent's Witness: NIL

List of Respondents's Exhibits: NIL

V. SOFANA DEVI,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

*(G.O. Rt. No. 37/Lab./AIL/T/2023,
Puducherry, dated 21st March 2023)*

NOTIFICATION

Whereas, the Government is of the opinion that an industrial dispute has arisen between the management of M/s. Shree Mother Plast India Private Limited, Puducherry and Thiru L. Gasperraj, over his non-employment along with back wages and other attendant benefits, 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. 20/9/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 the Secretary to Government (Labour) that the said dispute be referred to the Labour Court, Puducherry, for adjudication. The Labour Court, 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 Labour Court, 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

(i) Whether the dispute raised by the Petitioner Thiru L. Gasperraj, represented by Shree Mother Plast Employees Union, against the management of M/s. Shree Mother Plast India Private Limited, Puducherry, over his non-employment is justified or not? If justified, to give appropriate direction?

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

(By order)

P. RAGINI,
Under Secretary to Government (Labour).

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

*(G.O. Rt. No. 38/Lab./AIL/T/2023,
Puducherry, dated 21st March 2023)*

NOTIFICATION

Whereas, the Government is of the opinion that an industrial dispute has arisen between the management of M/s. Manatec Electronics Private Limited, Karikalampakkam, Puducherry and Thiru P. Narasingaperumal, over his non-employment along with other attendant benefits, 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. 20/9/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 the Secretary to Government (Labour) that the said dispute be referred to the Labour Court, Puducherry, for adjudication. The Labour Court, 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 Labour Court, 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.