



புதுச்சேரி மாநில அரசிதழ்

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பொருளடக்கம்

SOMMAIRES

CONTENTS

	பக்கம்		Page		Page
தொழில் நீதிமன்றத் தீர்ப்புகள் ..	44	Sentence arbitral du Travail de Tribunal.	.. 44	Award of the Labour Court ..	44
அரசு அறிவிக்கைகள் ..	51	Notifications du Gouvernement	.. 51	Government Notifications ..	51
ஆபத்தான நிறுவனங்கள் ..	60	Etablissements dangereux	.. 60	Dangerous Establishments ..	60
சாற்றறிக்கைகள் ..	61	Annonces	.. 61	Announcements ..	61
திருத்தம் ..	63	Corrigendum	.. 63	Corrigendum ..	63

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 168/AIL/Lab./T/2022,
Puducherry, dated 15th December 2022)

NOTIFICATION

Whereas, an Award in I.D (T) No. 19/2018, dated 30-08-2022 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of dispute between the management of M/s. Strides Shasun Pharmaceuticals Limited, Puducherry and Shasun Chemicals Staff Union, Ariyankuppam, Puducherry, over grant of financial reward of ₹ 1,00,000 each to the retired employees as listed in Annexure-I on account of transfer of undertaking of the management of M/s. Shasun Pharmaceuticals Limited to M/s. Strides Shasun Pharmaceuticals Limited.

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.

Tuesday, the 30th day of August, 2022.

**I.D. (T) No. 19/2018
C.N.R. No. PYPY06-000077-2018**

The President,
Shasun Chemical Staff Union,
No. 20, Cuddalore Road,
Ariyankuppam,
Puducherry-605 007. . . Petitioner

Vs.

The General Manager,
M/s. Strides Shasun Pharmaceuticals Limited,
R.S.No.33 & 34, Mathur Road,
Periya Kalapet,
Puducherry-605 014. . . Respondent

This Industrial Dispute coming on 05-08-2022 before me for final hearing in the presence of Thiru S. Lenin Durai, Counsel for the Petitioner and Thiruvalargal L. Sathish, S. Velmurugan, E. Karthik and S. Sudarasan, Counsel 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:

A W A R D

This Industrial Dispute has been referred by the Government as per the G.O. Rt. No. 127/AIL/Lab./T/2018, dated 23-08-2018 for adjudicating whether the industrial dispute raised by Shasun Chemical Staff Union, Ariyankuppam, Puducherry, against the management of M/s. Strides Shasun Pharmaceuticals Ltd., Puducherry, over grant of financial Reward of ₹ 1,00,000/- each to the retired employees as listed in Annexure - I on account of transfer of undertaking of the management of M/s. Shasun Pharmaceuticals Limited to M/s. Strides Shasun Pharmaceuticals Limited, is justified or not? If justified, what relief they are entitled to?

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

2. *Brief averments made in the claim statement of the petitioner are as follows:*

Shasun Pharmaceuticals Limited is a Pharmaceuticals company yielding huge profit. It is one of the huge concern in India. This company is functioning for several years in Periya Kalapet, Puducherry. The year turn over for 2014 to 2015 is ₹ 13,288.55 million dollars. After deducting the tax, it yielded profit of ₹ 237.55 million dollars *i.e.*, ₹ 23,75,50,000. The respondent company also received a Central Government Award by name "Stalwart of Indian API Industry" in the year 2015. The respondent company was transferred to other International Company and changed its name as "M/s. Solara Active Pharma Science Limited". Before this transfer, a industrial dispute raised before the Labour Officer (Conciliation), for some benefits to the workers. Pending enquiry, this transfer happened without any prior permission from the Labour Officer (Conciliation). While transferring the company from one management to another management, it is a convention to give rewards to the employees and such practice is prevailing in Puducherry State. Thus, the respondent company is liable to give ₹1,00,000 cash reward to the 13 retired employees listed in the Claim Petition. Hence, the Petition.

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

Firstly, the Petitioner has no *locus standi* to raise an industrial dispute either before the Labour Officer (Conciliation) or before this Court and the same is liable to be dismissed on the following grounds.

(a) Petitioner has raised a dispute against a company which does not exist. There was and is no company by name Strides Shasun Pharmaceuticals Limited and hence, no claim can be raised against such non-existent company.

(b) Petitioners are not workers within a definition of Section 2 (s) of Industrial Disputes Act as they had retired from their services of their employer namely, Shasun Pharmaceuticals Limited and Strides Shasun Limited. Thus, there is no employer and employee relationship between the petitioners and respondent at the time when the present dispute raised.

(c) The present dispute does not come under the definition of Section 2 (k) of Industrial Disputes Act as the period for which the petitioner claims compensation for 13 members, they were not workers of any Respondent organization.

(d) The present dispute is raised by a Union which has no presence in the Respondent's factory. None of the workers of Respondent Union are members of Petitioner Union. The person who filed the ID claiming to be President of the Petitioner Union has never been its President. Therefore, the Petitioner Union or the person who has filed the present ID claiming himself to be President of Petitioner Union has no *locus* to file the present dispute.

2. The very cause title of the reference and claim petition is defective. One M/s. Shasun Pharmaceuticals Limited, was engaged in the business of manufacturing tablets and Pharmaceuticals products. The said company was merged with M/s. Strides Arcolab Limited by way of a Scheme of Amalgamation by order of Hon'ble High Court in Company Petition No. 149/2015, dated 16-06-2015. The Amalgamated Company was then named as M/s. Strides Shasun Limited and it was registered with Registrar of Companies *vide* Certificate of Incorporation, dated 18-11-2015. The name of M/s. Strides Shasun Limited was changed to M/s. Strides Pharma Science Limited and it was approved by Registrar of Companies *vide* Certificate of Incorporation, dated 18-07-2018. If, Petitioner Union claims to be representing workers of Respondent, these facts must be known to them. Hence, the very nomenclature of Respondent in the cause title of Petitioner is erroneous and it needs to be suitably amended and if not, the same shall be dismissed.

3. *Without prejudice, Respondent specifically denies that,*

(i) The total business value of the respondent for the year of 2014-2015 is 13,288.55 Million dollars or 1,328 Crores 85 Lakhs 50 Thousand and net profit of 237.55 Million Dollars or 23 Crores 75 lakhs and 50 Thousand after excluding the tax.

(ii) The amalgamation of respondent's company with M/s. Solara Active Pharma Science Ltd. is against the law.

(iii) The amalgamation of this respondent's company was done during pendency of the conciliation proceeding which is not valid under section 33 (a) of Industrial Disputes Act 1947.

(iv) In order to encourage the employees, the practices of extending financial rewards to the employees on transfer of profitable company from one management to another management are prevailing in Puducherry.

(v) The management is to extend the financial reward to the tune of ₹ 1,00,000 to 13 retired employees and to help them for their peaceful retired life. All the aforementioned allegations/averments in the claim statement are absolutely false, baseless and concocted by petitioner and Petitioner is put strict proof of each of the aforementioned averments.

4. The present industrial dispute is outrageous, vexatious and has absolutely no legal, moral or ethical grounds for being entertained as a dispute, let alone an industrial dispute. The present claim petition is a classic example of how a Trade Union Exploits its powers and raises absolutely frivolous disputes with no legal or moral justification. The very reference of these kinds of disputes also reflect total lack of application of mind of both Labour Officer, Conciliation and Government, which ought to have discarded the dispute at its very inception, as being totally baseless.

5. The claim of petitioner is on behalf of 13 retired employees seeking ₹ 1,00,000 per head as a gratuitous payment which is unknown to law. Petitioner claims that there is a practice of paying compensation by a transferee company to employees of Transferor Company. Such claims of petitioner is ridiculous to say the least and even, the state missionaries like the Labour Officer Conciliation did not inform the Unions about the frivolity in its claim and has mechanically failed the dispute when there was none and referred it to this Court.

6. The claim of petitioner Union is absolutely illegal, as there is no contractual or moral obligation on the part of transferee company to pay any compensation under any name whatsoever to any of the workers of transferor

company, except such of those obligations that are mutually agreed between transferor and transferee under scheme of transfer. A transferee company does not even have a legal obligation of continue with employment of workers of transferor company, unless specifically agreed. Even transferor is not under any obligation to make any gratuitous payments over and above statutory payments mandated under various labour welfare legislations. Therefore, the demand for ₹ 1,00,000 to 13 workers, who had already retired either from their employer or transferee of their employer is totally unjustified.

7. The claim of petitioner that there is a convention of paying lump sum *ex gratia* is hereby stoutly denied and Petitioner is put to strict proof. Assuming with admitting that such amount were ever paid by any transferee company, it could have been purely gratuitous or out of mutual understanding, which cannot be demanded as a matter of right by Petitioner, unless there is statutory or contractual mandate.

8. The contention of petitioner that transfer of a company during pendency of a labour conciliation proceeding is violative of Section 33 (a) of Industrial Disputes Act is misleading and against the very letter and spirit of the said provision. The contention that Solara Active Pharma Science Limited purchased Strides Shasun Pharmaceutical Limited is by itself a wrong statement.

9. All the 13 retired employees on whose behalf present case is filed by petitioner were employees of M/s. Shasun Pharmaceuticals Limited. Majority of them retired from their respective services even before M/s. Strides Arcolab Limited took over the said company. Infact, Petitioner admits such retirement and has filed an application before Controlling Authority under Payment of Gratuity Act disputing calculations in gratuity amount paid by M/s. Strides Shasun Limited. The details of date of superannuation of 13 retired workers and the other particulars are listed henceforth.

Sl. No.	Applicant's Name	P.G.No.	Retired on	Gratuity paid	Arrears claimed
(1)	(2)	(3)	(4)	(5)	(6)
				₹	₹
1	Muthusamy (Employee Code 20020215)	P.G.No. 30/2017	25-06-2014	3,50,356	1,45,985.00
2	Ramachandran (Employee Code 20010110)	P.G.No. 31/2017	29-11-2013	3,68,769	1,03,392.92
3	Mohan (Employee Code 20020215)	P.G.No. 32/2017	27-11-2012	2,88,680	4,63,446.00
4	Achuthan (Employee Code 20020057)	P.G.No. 33/2017	30-05-2015	5,47,379	14,089.00
5	Mohamod Samuilla (Employee Code 20020050)	P.G.No. 34/2017	30-09-2012	2,90,170	1,45,985.00
6	Krishnamoorthy (Employee Code 20020215)	P.G.No. 35/2017	06-08-2012	3,63,462	4,43,120.00
7	Poomalai (Employee Code 10008)	P.G.No. 36/2017	01-05-2008	1,78,044	2,00,186.00
8	V. Pandiyan (Employee Code 20042)	P.G.No. 37/2017	12-06-2014	2,12,912	1,45,985.00
9	A. Uduman Ali (Employee Code 20020216)	P.G.No. 38/2017	31-12-2015	6,03,126	73,539.00
10	Veerabhadran (Employee Code 20010309)	P.G.No. 39/2017	24-04-2013	4,03,846	3,15,202.00
11	P. Veeragavan (Employee Code 20010078)	P.G.No. 40/2017	04-09-2014	4,38,173	1,45,985.00
12	Y. John Arthur (Employee Code 20020116)	P.G.No. 41/2017	10-02-2014	1,73,608	4,26,254.00
13	Devadass (Employee Code 20010109)	P.G.No. 42/2017	31-01-2016	4,77,923	4,02,815.00

10. It is thus clear that on the date when M/s. Shasun Pharmaceutical Limited was amalgamated to M/s. Strides Arcolab Limited, as many as 11 workers had already retired from the services of erstwhile Company. Therefore, they can have no claims of any nature after they cease to be employees of M/s. Shasun Pharmaceutical Limited. The remaining two workers who were in employment as on 16-6-2015 were

taken on roll by new management of this respondent and they continued with this employment till their date of superannuation. Under such circumstances, there is no question of seeking *lump sum* compensation by an employee who accepted the employment of transferee company and continued to work under it. It could thus be seen that the claim of compensation claimed by the petitioner is atrocious and has no legal or contractual

basis hence, the same is liable to be dismissed with exemplary cost. Hence, prayed to dismiss the claim petition.

4. *The point for consideration is:*

Whether the petitioner is entitled for over grant of financial reward of ₹1,00,000 each to the retired employees as listed in Annexure - I on account of transfer of undertaking of the management of M/s. Shasun Pharmaceuticals Limited to M/s. Strides Shasun Pharmaceuticals Limited?

5. *On points:*

On the petitioner side, Mr. Poomalai / the Executive Committee member of Petitioner Union and who is also the 10th Petitioner herein was examined as PW1 and Exs. P1 to P2 were marked. On the respondent side, RW1 was examined and Exs. R1 to R7 were marked.

6. *On the Point :*

This is a claim application moved by the Petitioner Union for over grant of financial reward of ₹ 1,00,000 each to the retired employees as listed in Annexure - I on account of transfer of undertaking of the management of M/s. Shasun Pharmaceuticals Limited to M/s. Strides Shasun Pharmaceuticals Ltd. In order to substantiate Petitioner Union's claim, through PW1. Ex.P1 the copy of the balance sheet showing profit and loss statement for the year 2014-15 and Ex.P2 the failure report of Labour Officer (Conciliation) marked. According to the Petitioner Union, M/s. Shasun Pharmaceutical Limited is a very well-known Multinational Firm and functioning at Kalapet for many more years. It has been acquired by Multinational Company and functioning in the name of 'Strides Shasun Pharmaceutical Limited'. Recently another one Multinational Company has acquired the said Firm. In order to encourage the employees, the practices of extending financial rewards to the employees on transfer of profitable company from one management to another management are prevailing in Puducherry. Hence, this claim petition filed for an order directing to order ₹ 1,00,000 to 13 retired employees towards the financial reward.

7. *This ID has been objected as follows:-*

(i) Dispute against a company which does not exist. No company by name Strides Shasun Pharmaceutical Limited and hence, no claim can be raised against a non-existent company.

(ii) As per Section 2(s) of Industrial Disputes Act retired employees from the services are no longer employee and no employer-employee relationship exists.

(iii) Present dispute does not come under the definition of 2(k) of Industrial Disputes Act for the claim period where the said 13 members were not workers.

(iv) The petitioner filed has no *locus standi* to file.

(v) The present claim petition is an example of how a Trade Union exploits its powers and raises absolutely frivolous disputes with no legal or moral justification.

(vi) The claim of the petitioner seeking gratuitous payment which is unknown to law.

(vii) The gratuitous payment purely gratuitous or out of mutual understanding, which cannot be demanded as a matter of right by petitioner, unless there is a statutory or contractual mandate.

(viii) The 13 petitioners were employees of M/s. Shasun Pharmaceutical Limited. Majority of them retired from service even before M/s. Strides Arcolab Limited took over the said company. An application before Controlling Authority under payment of Gratuity Act disputing calculations in the gratuity amount.

(ix) On the date when M/s. Shasun Pharmaceutical Limited amalgamated to M/s. Strides Arcolab Limited, 11 workers already retired from service of erstwhile company. The remaining two workers were continued with this employment till their date of superannuation.

(x) No question of *lump sum* compensation by an employee who accepted the employment of transferee company and continued his work.

8. I have considered the rival submissions made by learned Counsel for the parties and perused the record. From the oral as well as documentary evidence produced on the Petitioner side, nothing has been elucidated that they have the right to claim the *lump sum* compensation as the gratuitous payment/financial reward which is unknown to law. As rightly pointed out in the counter that the gratuitous payment purely gratuitous or out of mutual understanding, which cannot be demanded as a matter of right by petitioner, unless there is a statutory or contractual mandate.

9. Further, the 13 Petitioners who claim under this reference were employees of M/s. Shasun Pharmaceutical Limited. Majority of them retired from service even before M/s. Strides Arcolab Limited took over the said company. Admittedly, most of them got retired even before M/s. Strides Arcolab Limited took over the said company. An application pending before Controlling Authority under payment of Gratuity Act disputing calculations in the gratuity amount. On the date when M/s. Shasun Pharmaceutical Limited amalgamated to M/s. Strides Arcolab Limited, 11 workers already retired from service

of erstwhile company. The remaining two workers were continued with this employment till their date of superannuation.

10. The Petitioner Union's case is that while transferring the company from one management to another management, it is a convention to give rewards to the employees and such practice is prevailing in Puducherry State. The well-known Latin maxim *Ubi jus, ibi remedium* - meaning 'where there is a right, there is a remedy', postulates that where law has established a right there should be a corresponding remedy for its breach. The right to a remedy is one of the fundamental rights historically recognized in all legal systems. It is a general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded. Mere convention/Practice prevailing in one State does not create a right to claim the same and not binding. Even there is such a convention prevailing, it cannot be claimed as a matter of right.

11. The other contentions made on the side of the management that on the date when M/s. Shasun Pharmaceutical Limited amalgamated to M/s. Strides Arcolab Limited, 11 workers already retired from service of erstwhile company and the remaining two workers were continued with this employment till their date of superannuation. Therefore, there is no question of *lump sum* compensation by an employee who accepted the employment of transferee company and continued his work and as the retired employees from the services are no longer employee and no employer employee relationship exists and this dispute does not come under the definition of 2(k) of Industrial Disputes Act because of the admitted facts that for the claim period where the said 13 members were not workers. The petitioner Union has placed their claim as prevailing convention/practice, which shall not be enforceable. The Petitioner Union failed to show that they have right to claim or at least a legitimate expectation, which can be claimed before the Court of law. Thus, a claim under the cover of mere so called convention/practice prevailing in one State cannot be claimed as a matter of right. Therefore, the point for consideration is answered as against the petitioner Union and they are not entitled for any relief under this reference.

In the result, reference is unjustified and the Petitioners are not entitled for any relief. The industrial dispute as raised by the Petitioner Union is dismissed. No cost.

Dictated to the Stenographer, directly typed by her, corrected and pronounced by me in open Court on this the 30th day of August, 2022.

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

List of petitioner witness:

PW1 — 27-01-2020 Mr. N. Poomalai

List of petitioner side exhibits:

Ex.P1 — — Photocopy of the computer printout relating to consolidated financial statements for the year ended March 31, 2015.

Ex.P2 — 11-07-2018 Photocopy of the failure report submitted by Labour Officer (Conciliation), Government of Puducherry.

List of respondent's witness:

RW1 — 06-09-2021 Mr. Balamurugan

List of respondent side exhibits:

Ex.R1 — 23-08-2021 Letter of Authorization issued to RW1 by the Respondent Company to adduce evidence before this Court.

Ex.R2 — 16-06-2015 Photocopy of the order passed in Comp. petition.No.149/2015 by the Honourable High Court of Madras.

Ex.R3 — 18-11-2015 Photocopy of Certificate of incorporation pursuant to change of name of Respondent Management issued by Ministry of Corporate Affairs, Government of India.

Ex.R4 — 18-07-2018 Photocopy of Certificate of incorporation pursuant to change of name of Respondent Management issued by Ministry of Corporate Affairs, Government of India.

Ex.R5 — 25-03-2017 Photocopy of Certificate of incorporation pursuant to change of name of Respondent Management issued by Ministry of Corporate Affairs, Government of India.

Ex.R6 — — Photocopy of the petition (series) filed before Controlling Authority, Payment of Gratuity Act 1972 by the petitioners.

Ex.R7 — — Photocopy of the counter
(series) filed before Controlling
Authority, Payment of
Gratuity Act, 1972 by the
respondent Management.

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

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 169/AIL/Lab./T/2022,
Puducherry, dated 15th December 2022)

NOTIFICATION

Whereas, an Award in I.D (T) No. 01/2021, dated 30-08-2022 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of the Industrial dispute between the Management of M/s. Matrix Stampi Limited, Puducherry and the Union workmen represented by All India United Trade Union Centre, Ariyankuppam, Puducherry, over non-payment of legal dues such as bonus, gratuity etc., to Tvl. M. Boopalan and S. Janarthanan.

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.

Tuesday, the 30th day of August, 2022.

I.D. (T) No. 01/2021
C.N.R. No. PYPY06-000024-2021

The State President,
All India United Trade Union Centre,
No. 85, Veerampattinam Street,
Chettiarkadai Bus Stop,
Ariyankuppam,
Puducherry-605 007. . . Petitioner

Versus

The Managing Director,
M/s. Matrix Stampi Limited,
No.19/1 & 4/4, Mailam Road,
Sedarapet Post,
Puducherry-605 111. . . Respondent

This Industrial Dispute coming on 19-08-2022 before me for final hearing in the presence of Thiruvalargal S. Lenindurai @ Kalimuthu and M. Ruthra, Counsels for the petitioner, Respondent remained *exparte* 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.53/AIL/LAB/T/2021, dated 05.08.2021 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 All India United Trade Union Centre, Ariyankuppam, Puducherry against the Management of M/s. Matrix Stampi Limited, Puducherry, over non-payment of legal dues such as bonus, gratuity etc., to Tvl. M. Boopalan and S. Janarthanan is justified or not? If justified, what relief they are 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:

Petitioner Union has filed the claim petition. The Respondent Company is a leather factory functioning for more than past 27 years. In the Respondent Company, there are more than 100 employees are working. The said Respondent Company has no license to run the company such as from Electricity Board and without any standing order. No tax has been paid so far by the Respondent Company and thus, it is cheating the Government by evading payment of tax. While being so, the Respondent Company removed some employees who were working in its company for several years. But, the Respondent Company did not give the salary arrears, gratuity, bonus, leave salary *etc.*, till date. So, the employees have given a petition to the Respondent Company with these demands on 01-11-2019. The Respondent Company received the petitions from the employees but did not give any reply or explanations to the employees. On 21-11-2019, the employees submitted their demands before Labour Officer (Conciliation) and raised the Labour Industrial Dispute. On receipt of the same, the Labour Officer

(Conciliation) issued enquiry notice on 06-12-2019 to the parties. Several hearings of enquiry conducted by the Labour Officer (Conciliation). But, the Respondent Company did not come forward to give any reply, explanation and they did not appear before the Labour Officer (Conciliation) proceedings. The attitude of the Respondent Company is against the provisions of the Industrial Disputes Act, 1947 and principles of natural justice. The said attitude is against the Schedule V of the Industrial Disputes Act, 1947 and thus amounts to Unfair Labour Practice. Hence, the Labour Officer (Enforcement) passed an order dated 30-01-2020 for the Respondent Company to disburse the gratuity amount to the employees. But, the Respondent Company till date did not come forward to comply the order. Hence, the prayer to disburse salary arrears, gratuity, bonus, leave salary *etc.*, with accrued interest to the employees namely S. Janarthanan and M. Boopalan. Hence, the claim.

3. Notice served to both the Petitioner and Respondent. Petitioner appeared and engaged an Advocate to represent him. Whereas, the Respondent not appeared. Hence, the Respondent Company was set *ex parte* on 20-10-2021. Claim petition filed by the Petitioner.

4. *Point for determination:*

Whether the Petitioners - Workmen are entitled for the prayer of directing the Respondent to disburse the salary arrears, gratuity, bonus, leave salary, *etc.*, with accrued interest to the employees namely, S. Janarthanan and M. Boopalan as prayed in the claim petition?

5. *On Point:*

Petitioner/President of the Petitioner Union examined himself as PW1. Ex.P1 to P6 were marked. Since, Respondent set *ex parte*, cross-examination not done on PW1.

6. *On the point:*

This is an I.D.(T) filed by the Trade Unions and the against the management company for non-payment of legal dues such as bonus, gratuity, *etc.*, to the 2 workmen. Notice were served on both the parties to the I.D. Petitioner/All India United Trade Union Centre appeared whereas, the Respondent namely Managing Director, M/s. Matrix Stampi Ltd., remained absent. Hence, the Respondent set *ex parte* on 20-10-2021. Petitioner was examined Ex.P1 to Ex.P6 were marked.

7. On close perusal of PW.1 evidence, I am able to find that workmen namely; Mr. M. Boopalan and Mr. S. Janarthanan resigned their services from the

Respondent Company after several years of their employment. But, according to the Petitioner Union, the Respondent Company did not settle the benefits such as gratuity, bonus to the abovesaid resigned workmen. So, the Petitioner Union filed a petition before the Labour Officer (Conciliation), Puducherry on 21-11-2019 for Conciliation. In the said conciliation, the Petitioner Union sought for reliefs to the four workmen including these two workmen. The said petition preferred before Labour Officer (Conciliation) dated 21-11-2019 marked as Ex.P1. The notices were ordered by the Labour Officer (Conciliation), Puducherry to both the parties dated 06-12-2019. The Labour Officer (Conciliation), Puducherry has filed a failure report, dated 17-06-2021 (Ex. P3) at page 2 unnumbered para 2 stating that "The Management has refused to settle the statutory benefits consequent on their resignation, *i.e.*, gratuity, bonus, leave salary, *etc.*, The Petitioner Union has filed a representation on 21-11-2019 requesting to grant the statutory benefit to the abovesaid four workers instead of employment. But, the Management has not yet turned up either to settle the statutory benefits or reply to the representation. Necessary notice of enquiry for conciliation was issued to both parties for joined discussions towards an amicable settlement of the dispute. During the conciliation, the management has filed a reply statement, dated 13-12-2019 and a copy of the same received by the Union in which stated that they are closing a settlement of their Ex-employees who worked with them after getting NOC or as per the notice period which is as per their appointment terms." And at page 3 unnumbered para 2, it has been further mentioned that, "Conciliation enquires were posted on various dates to reach an amicable settlement. Mr. M. Boobalan, affected worker only appeared for the enquiries with Union and the Management has not turned up to attend the enquiry for more than 13 hearings and the management has not filed any written statement about their stand in this regard, which shows that the adamant attitude of the management and not ready to settle his dispute in this forum. Following continuous absence on the management side the Petitioner requested to failure the issue. As there is no possibility to make an amicable settlement between the parties, finally the matter was ended in failure as an *ex parte*".

8. Ex.P5 and Ex.P6 are the Notice for payment of gratuity issued by the office of the Labour Officer (Enforcement), Government of Puducherry, dated 30-01-2020 to the Respondent Company. The said Gratuity Application in G.A.No. 119/2019 and G.A.No. 120/19 respectively, was ordered on 30-01-2020

directing the Respondent to pay the applicants namely, Janarthanan and Boobalan a sum of ₹ 2,55,198 and ₹ 4,80,000 respectively towards gratuity with simple interest @ 10% per annum from 31-03-2019 and from 01-07-2019 respectively till the date of payment. Even in that Ex.P5 & Ex.P6, I could able to find that the Respondent failed to appear inspite of service of notice and the Respondent was set *ex parte*. Therefore, even before the controlling authority under the payment of Gratuity Act, 1972-cum-Labour Officer (Enforcement), Government of Puducherry, the Respondent Company has not chosen to appear and submit their side. Therefore, from all the exhibits, *i.e.*, P.1 to P.6 this Court could clearly comes to the conclusion that the Respondent Company never appeared before any forums such as Labour Officer (Conciliation), Puducherry, Labour Officer (Enforcement), Puducherry and before this Industrial Tribunal, despite several notices issued to the Respondent Company for making his appearance and submission so as to decide the industrial dispute.

9. As discussed above, I hold that Petitioner Union has categorically proved its case by way of adducing oral evidence and by marking documentary evidences. The case of the Petitioner Union has not been rebutted by the Management Company and it remained absent. Therefore, from all angles, this Court decide the point for determination in favour to the Petitioner Union to the effect that Respondent Company is directed to pay the legal dues such as bonus, gratuity, *etc.*, to Mr. M. Boobalan and Mr. S. Janarthanan and thus the industrial dispute referred is justified.

In the result, the Industrial Dispute raised by the Petitioner Union is justified and the Respondent Management is hereby directed to pay the legal dues such as bonus, gratuity, *etc.*, to Mr. M. Boobalan and Mr. S. Janarthanan as prayed in the claim petition. No costs.

Dictated to the Stenographer, directly typed by her, corrected and pronounced by me in open Court on this the 30th day of August, 2022.

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

List of petitioner's witness:

PW1 — 01-06-2022 Mr. Sivakumar

List of petitioner's exhibits:

Ex.P1 — 21-11-2019 Photocopy of the petition in Form L to the Labour Officer (Conciliation), Government of Puducherry.

Ex.P2 — 06-12-2019 Photocopy of the Notice Enquiry/Conciliation.

Ex.P3 — 17-06-2021 Photocopy of the Failure report by the Labour Officer (Conciliation), Government of Puducherry.

Ex.P4 — 05-08-2021 Photocopy of the summon issued by Labour Commissioner.

Ex.P5 — 30-01-2020 Form – R, order copy of G.A.No.119/2019 passed by Controlling Authority under the payment of Gratuity Act, 1972.

Ex.P6 — 30-01-2020 Form – R, order copy of G.A.No.120/2019 passed by Controlling Authority under the payment of Gratuity Act, 1972.

List of respondent's witness: Nil

List of respondent's exhibits: Nil

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

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 183/Lab./AIL/T/2022,
Puducherry, dated 22nd December 2022)

NOTIFICATION

Whereas, the Government is of the opinion that an industrial dispute has arisen between the management of M/s Suolificio Linea Italia (India) Private Limited and Chemcrown Exports and Suolificio Linea Italia (India) Private Limited, Thozhilalargal Sangam (Affiliated with CITU), over payment of bonus for the year 2018-19, 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 (d) 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