



புதுச்சேரி மாநில அரசிதழ்

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 06/AIL/Lab./T/2023, dated 19th January 2023)

NOTIFICATION

Whereas, an Award in I.D (T) No. 12/2014, dated 14-12-2022 of the Industrial Tribunal-Cum-Labour Court, Puducherry in respect of dispute between the Union, Puducherry Road Transport Corporation Drivers & Conductors Thozhilalargal Nala Sangam against the management of M/s. Puducherry Road Transport Corporation (PRTC), over fixation of seniority from the date of appointment as daily rated employee on voucher payment 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 23-5-1991, 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. RAGINI,

Under Secretary to Government (Labour).

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

Present :Tmt. V. SOFANA DEVI, M.L.,
Presiding Officer.

Wednesday, the 14th day of December, 2022

**I.D. (T) No. 12/2014
CNR. No. PYPY06-000020-2014**

The President,
Puducherry Road Transport
Corporation Drivers and Conductors
Thozhilalargal Nala Sangam,
No. 45, Ist Cross, Gandhi Nagar,
Puducherry. . . Petitioner

Versus

The Managing Director,
M/s. Puducherry Road Transport
Corporation (PRTC),
No. 4, Iyyanar Koil Street, Raja Nagar,
Puducherry. . . Respondent

This Industrial dispute coming on 07-12-2022 before me for final hearing in the presence of Thiru G. Krishnan, Counsel for the Petitioner and Thiru B. Mohandoss, 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:

AWARD

This industrial dispute has been referred by the Government as per the G.O. Rt. No.111/AIL/LAB/J/2014, dated 22-07-2014 for adjudicating whether the industrial dispute raised by the Union, Puducherry Road Transport Corporation Drivers & Conductors Thozhilalargal Nala Sangam against the Management of M/s. Puducherry Road Transport Corporation (PRTC) affiliated to (PMTUC), over fixation of seniority from the date of appointment as daily rated employee on voucher payment of 64 persons *viz*; (1) M. Gunasegaran, (2) R. Ramesh, (3) R. Sundaramoorthy, (4) A. Seetharaman, (5) C. Murugan, (6) S. Ramalingam, (7) T. Rajendiran, (8) A. Anandhan, (9) R. Nakeeran, (10) V. Muthalrayan, (11) R.Thandavamoorthy, (12) S. Govindarajan, (13) J. Balasoundirame, (14) A. Saviour Francis, (15) D. Dhanaseelan, (16) V. Gnanavelu, (17) B. Suresh, (18) D. Vasu, (19) V. Sundharam, (20) A. Arokkiyaraj Cathivendar, (21) M. Pazhanisamy, (22) N.P. Balamurugan, (23) S. Sivasankaran, (24) A. Theepanjan, (25) R. Senthilkumar, (26) E. Purushothamman, (27) J. Veerapandian, (28) S. Azhagumuthaiyan, (29) L. Ramesh, (30) R. Thirumaran, (31) P. Balamurugan, (32) M. Prabu, (33) J. David Devarayar, (34) K. Rajasegaran, (35) J. Parasuraman, (36) D. Vengatachalam, (37) A. Savarimuthu, (38) J. Vadivel, (39) S. Iyyappan, (40) S. Marimuthu, (41) A. Ramasamy, (42) M. Samidurai, (43) S. Karthikesan, (44) S. Marimuthu, (45) R. Babu, (46) D. Koujandhaivelu, (47) S. Malaivasan, (48) S. Pazhani, (49) M. Kamartheen, (50) S. Murugavel, (51) K. Ganapathy, (52) K. Ilanchezhian, (53) M. Aruljothi, (54) K. Vengatachalapathy, (55) M. Sivakumar, (56) M. Kumar, (57) K. Arul, (58) K. Dhanraj, (59) N. Malaiyalathan, (60) S. Rajkumar, (61) M. Harirajan, (62) M. Ranganathan, (63) V. Iyyanar and (64) T. Anandharaj is justified or not? If, justified what relief, the Petitioner is entitled to?

(b) Whether the claim of the Union workmen to effect transfer based on the Corporation Transfer Policy and Rules is justified? 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:*

The Puducherry Road Transport Corporation Drivers and Conductors Thozhilalargal Nala Sangam (RTU No. 1537/RTC/2008) affiliated with PMTUC, the Petitioner herein, raised an industrial dispute over the disparity in fixation of seniority of 69 workers and also over the transfer of workmen and on failure in conciliation reference was made by the appropriate Government to adjudicate upon the following disputes:

(a) Whether the dispute raised by the Union, Puducherry Road Transport Corporation Drivers and Conductors Thozhilalargal Nala Sangam against the management of M/s. Puducherry Road Transport Corporation (PRTC) affiliated to (PMTUC), over fixation of seniority from the date of appointment as daily rated employee on voucher payment of 64 persons is justified? If justified, what relief they are entitled to? (b) Whether the claim of the Union workmen to effect transfer based on the Corporation Transfer Policy and Rules is justified? If, justified what relief, they are entitled to? (c) To compute the relief, if any, awarded in terms of money, it can be so computed.

(ii) The Pondicherry Tourism Development Corporation Limited (PTDC) was incorporated during February 1986 to promote tourism in the Union territory of Puducherry. With the introduction of transport service from March 1988, the Corporation was converted into Pondicherry Tourism and Transport Development Corporation Limited (PT&TDC) with effect from December 1992. Thereafter, the Corporation was bifurcated with effect from 1st April 2005 into the Puducherry Road Transport Corporation (PRTC) and Pondicherry Tourism Development Corporation (PTDC), in order to focus on diversification and expansion projects. The Puducherry Road Transport Corporation (PRTC), the Respondent herein is the Government Transport Corporation in the Union territory of Puducherry that provides services in all the four regions of Puducherry, namely puducherry, Karaikal, Mahe and Yanam.

(iii) The Respondent Corporation issued an advertisement in the Daily Thanthi newspaper on 13-09-2005 inviting applications from eligible candidates for appointment as Drivers and Conductors on daily rated basis. By selection method the Respondent selected 149 employees on merits and all these selected candidates including the 64 employees mentioned above were initially employed on daily rated basis. Though all the said employees were engaged from their date of joining as daily rated the Respondent initially paid voucher payment to 64 of

them. Neither the recruitment rules nor the service rules of the Respondent Corporation, provide for voucher payment and such voucher payment for the daily rated employees is illegal and unsustainable in law and when represented the Respondent Management informed that only for the sake of convenience voucher payment was made which would not affect their daily rated service.

(iv) All the 146 Drivers and Conductors were regularised on 16-08-2010 but, while drawing seniority list the services of the 64 Conductors and Drivers herein was not reckoned from the date of their initial appointment in par with similarly situated employees on the ground that voucher payment service was not counted which is against the settled principles of law. During the conciliation proceedings, the Conciliation Officer also pointed out the justification in the plea of the Petitioner Union for the fixation of seniority from the date of joining and that there is no such provision of appointment on voucher payment. The 64 Drivers and Conductors herein are entitled to seniority from the date of their initial engagement as daily rated irrespective of the mode of payment made by the Respondent Corporation.

(v) The allegations made by the Respondent Corporation during conciliation that voucher payment service will not be taken into account for any purpose and since the said Drivers and Conductors have been engaged on voucher payment basis their services has not been taken in to account are baseless and do not deserve any consideration either factually or legally. The Respondent Corporation failed to appreciate the fundamental difference between mode of payment and mode of engagement. The voucher payment made to the 64 Drivers and Conductors herein was only a mode of payment chosen by the Respondent Corporation but, even during such period of voucher payment they were engaged on daily rated basis from the date of their appointment. The voucher payment service as claimed by the Respondent is unknown to law and created for unequal treatment.

(vi) The seniority to the grade of Drivers and Conductors should be drawn only by taking in to account of their respective date of appointment as per the selection list and excluding the period of voucher payment in reckoning seniority is unfair, unjust, unreasonable and not in accordance with law. The 64 Drivers and Conductors herein are entitled to have their seniority reckoned from their date of joining in the Respondent Corporation. Only on the basis of seniority-*cum*-selection list transfer should

be made in accordance with the Corporation transfer policy but, the Respondent Management has effected transfer at their whims and fancy with oblique motive and in colourable exercise of power and the transfer of Thiru K. Venkadesan, Thiru S. Ulaganathan and Thiru K. Devanathan would establish the same. In the circumstances stated above, it is prayed that this Hon'ble Tribunal may be pleased to pass an Award granting the following reliefs;

(a) reckoning seniority of the 64 Drivers and Conductors herein from their date of joining in the Respondent Corporation and direct the Respondent to modify the seniority list of the Drivers and Conductors accordingly.

(b) directing the Respondent Corporation to effect transfer of the Drivers and Conductors in accordance with the transfer policy of the Corporation without any discrimination and other reliefs.

3. Brief averments in the counter filed by the Respondent are as follows:

The claim made by the Petitioner Union that Reckoning seniority of the 64 Drivers and Conductors herein from their date of joining in the Respondent Corporation and direct the Respondent to modify the seniority list of the Drivers and Conductors accordingly and directing the Respondent Corporation to effect transfer of the Drivers and Conductors in accordance with the transfer policy of the Corporation without any discrimination is not maintainable in Law or on facts and hence, liable to be dismissed.

(ii) According to the third schedule appended to the Industrial Disputes Act, 1947, the claim made by the Petitioner and also the reference of dispute for adjudication by this Court, cannot be decided for want of jurisdiction of this Court.

(iii) According to section 2(m) of the Industrial Disputes Act, 1947, "prescribed" means prescribed by rules made under that Act. Similarly, the Industrial Disputes (Central) Rules, 1957 or any other rules within the jurisdiction of the Industrial Tribunal constituted under the Industrial Disputes Act, 1947. As such only the items (i to x) alone determine the subject matter coming within the jurisdiction of the Industrial Tribunal. None of the reliefs claimed by the Petitioner falls within the subject matter of jurisdiction of this Court. Under such circumstances, the claim made by the Petitioner is liable to be dismissed as without jurisdiction by this Court. The issue relating to lack of jurisdiction of this Court, may kindly be taken up as a preliminary issue and be decided in the first instance before going into the other issues on merits of the claim.

(iv) The industrial disputes has been raised by the Petitioner Union, over the fixation of Seniority of 64 persons, starting from M. Gunasekaran and ending with T. Anandharaj in a representative capacity. This subject matter of the dispute is a collective dispute coming under the purview of section 2 (k) of the Industrial Disputes Act, 1947 which is distinct from the individual dispute coming under the purview of section 2-A of the said Act. Under such circumstances the representative charatoken up the subject matter of the dispute as referred to in the claim statement has not been disclosed in the claim statement. As such the *Locus standi* of the Petitioner Union to raise the dispute on behalf of the 64 workmen is not maintainable and valid in Law. In that case, it will be in the fitness of things to decide the questioning relating to the *Locus standi* of the Petitioner Union to take up the dispute relating to the 64 workmen for adjudication by this Court, should be decided in the first instances and accordingly seeks the resolution of the said issue as a preliminary issue.

(v) The Respondent admits the factum of issuance of advertisement in Daily Thanthi newspaper on 13-09-2005 inviting applications from eligible candidates for appointment as Drivers and Conductors on daily rated basis. However, the Petitioner Union has made distorted version of facts to suite its convenience and there is also suppression of material facts relating to selection and appointment of 149 employees. As such this Respondent expects the Petitioner Union to prove the allegations made by the Petitioner in paragraphs 3 to 5 of the claim statement.

(vi) The 64 persons starting from M. Gunasekaran and ending with T. Anandharaj referred to in the claim statement cannot compare their service conditions with those of other Drivers and Conductors of the Respondent Corporation. The 64 Drivers and Conductors who were engaged on voucher payment basis form a distinct class by themselves. They are not permanent Employees during voucher payment service and they do not have the right to hold the post during the voucher payment service period. It is important to note that those 64 persons do not come within the cadre strength of the respective posts. They were not appointed to the permanent post of the Drivers and Conductors and they were only engaged as daily rated casuals depending upon the day to day needs and Administrative and Business exigencies of the Respondent Corporation. The classification of post into different categories based on intelligible criteria is valid in Law and will not amount to hostile discrimination among the Drivers and Conductors.

(vii) The allegation in the claim petition "when represented the Respondent Management informed that only for the sake of convenience voucher payment was made which would not affect their Daily-rated service" is devoid of truth and substance. It is true that all the Drivers and Conductors were regularised but, all of them were not regularized with retrospective effect. The 64 persons in respect of whom the dispute has been raised cannot be treated on par with other Drivers and Conductors who are permanent. As such, the claim made by the 64 persons who were initially engaged on voucher payment to be treated on par with the other Drivers and Conductors in terms of seniority cannot be accepted. The persons appointed over and above the permanent staff strength to take care of the day-to-day needs and to fillup the temporary vacancies cannot claim seniority similar to that of persons appointed to permanent vacancies. The sound principles of Labour Law recognizes equality of equals only and un-equals cannot be treated alike. Under such circumstances the contention that the 64 Drivers and Conductors are entitled to seniority from the date of their initial engagement as daily rated is invalid. It may kindly be noted that the daily rated casuals have no lien over their employment.

(viii) The contention that "during the conciliation proceedings, the Conciliation Officer also pointed out the justification in the plea of the Petitioner Union for the fixation of seniority from the date of joining and that there is no such provision of appointment on voucher payment" is vexatious and does not represent true facts. Engagement of persons to do the work of the employer depending upon the exigencies of circumstances is valid in law and payments to them and also to employees who are daily rated casuals on obtaining voucher has got sanction in law. The Labour jurisprudence also recognizes the concept of 'engagement' which is distinct from a regular 'appointment'.

(ix) The Respondent Management has not effected transfer at its whims and fancies with oblique motive and in colourable exercise of power as alleged by the Petitioner. The transfer of Thiruvallur K. Venkadesan, Ulaganathan & Devanathan are valid ones and the Petitioner has to establish with proper pleadings as to how their transfer is not valid in law. Its transfer policy is valid and expects the Petitioner to prove the defects in the same.

(x) The Petitioner has not made out a proper case for granting reliefs for the 64 Drivers and Conductors in respect of their seniority position as well as their transfers. It may kindly be noted that the petition has not disclosed necessary facts and circumstances without which the pleadings will not be complete.

The petition does not spell out as to who are all Drivers & who are all Conductors from the list of 64 persons referred to in the claim statement. Similarly, their dates of appointment/initial engagement by the Corporation have not been disclosed. To add further, the Petitioner has to disclose the names of other Drivers and Conductors and their initial date of appointment in comparison with whom the Petitioner claims parity in employment for the 64 Drivers and Conductors. Moreover, the Petitioner refers to "Transfer Policy of the Corporation" in a vague manner without pointing out the details of the same. Under such circumstances, the claim petition deserves dismissal for want of necessary particulars to grant the reliefs claimed.

(xi) The Petitioner Union seeks to modify the seniority list of the Drivers and Conductors. Such a relief if granted, may affect the seniority position of several Drivers and Conductors. The Petitioner Union cannot seek such a relief without impleading the other Drivers and Conductors whose interest is involved in the same. The claim petition is liable to be dismissed for non-joinder of necessary parties. Similarly, seeking the relief to effect transfer of Drivers and Conductors in accordance with the transfer policy is vague one and the relief claimed if granted, cannot be executed in precise terms. Hence, the Respondent prays this Court to dismiss the claim with costs in the interest of justice.

4. Points for consideration:

Whether the dispute raised by Union, Puducherry Road Transport Corporation Drivers & Conductors Thozhilalargal Nala Sangam against the Management of M/s. Puducherry Road Transport Corporation (PRTC) affiliated to (PMTUC), over fixation of seniority from the date appointment as daily rated employee on voucher payment of 64 persons and the claim of the Union workmen to effect Transfer based on the Corporation Transfer Policy and Rules is justified and for what other relief, the Petitioner is entitled to?

5. On point:

On the Petitioner side, Mr. P. Ilango, the claim petitioner himself was examined as PW1 and through him Ex. P1 to Ex. P12 were marked. On the Respondent side, RW1 Kishore Kumar, General Manager & Company Secretary, Puducherry Road Transport Corporation, Puducherry was examined, Ex. R1 was marked through him.

6. On the Point;

The Present reference has been made by the Government of Puducherry to decide the industrial dispute regarding the fixation of the seniority for 64 Employees who are

Drivers and Conductors in the Respondent Corporation from the date of appointment as daily rated employees on voucher payment and to effect transfer based on the Respondent Corporation Transfer Policy and Rules.

7. The first and the foremost contention raised on the side of the Respondent Management is that the subject matter of the dispute is a collective dispute coming under the purview of section 2 (k) of Industrial Dispute, Act 1947 which is distinct from the individual dispute coming under the purview of section 2-A of industrial act. Hence, the representative character of the Petitioner Union to raise the dispute on behalf of 64 persons has to be made out. Whereas, the Petitioner Union has not disclosed and proved before this Court, under which Authority it is representing 64 workmen and as such the *locus standi* of the Petitioner Union to raise the dispute on behalf of 64 workmen is not maintainable.

8. On perusal of case records, I could able to find that before the Conciliation Proceedings, the Petitioner Union has sponsored the dispute on behalf of the said 64 workmen. Even before that the representations such as Ex. P8, P9 were given by the Petitioner Union to the Labour Commissioner and to the Labour Officer (Conciliation), respectively. On perusal of Ex. P10, the reply given by the Respondent Corporation to the Labour Officer (Conciliation), dated 18-07-2013. I could find that the said objection never made before on any occasions. For the very first time, the said objection about the *locus standi* of the Petitioner Union for raising this dispute made by the Respondent Corporation only in its counter before this Court. Further, the Petitioner Union was all along raising the industrial dispute on behalf of 64 workmen before the Labour Officer (Conciliation), Labour Commissioner and the reference was also made to this Court by the Government of Puducherry showing the Petitioner Union as one of the party to the Industrial Dispute. Under these circumstances, the objections raised on the side of the Respondent Corporation for the very first time regarding the *locus standi* of the Petitioner Union not holds good, not acceptable and thus, rejected as not sustainable.

9. Admittedly, the Respondent Corporation (PRTC) had invited Recruitment to the posts of Drivers and Conductors on daily rated basis as employees by way of publishing a Notification in the Daily Thanthi newspaper on 13-09-2005. Accordingly, selection was made.

10. The Point of dispute is that according to the Petitioner Union 149 employees were selected on merits and issued with the Appointment Order. All the 149 employees were recruited only as daily rated employees

as per the Appointment Order. Only in December 2005, the Respondent Corporation issued an order stating that among 146 employees 69 employees who were stated in the Annexure of the Reference were specified as voucher payment employees. They were designated as daily rated employees only from June 2007. Hence, the Petitioner Union raised objection and requested the Respondent Management to fix the seniority on the basis of the Appointment Order and Selection List. Further, the Union requested the Respondent Corporation to effect transfer by following the norms and policy of the Respondent Corporation.

11. It is strongly contended on the side of the claim Petitioner Union that voucher payment made to the 64 Drivers and Conductors was only a mode of payment chosen by the Respondent Corporation, but, even during such period of voucher payment, they were engaged on daily rated basis from the date of their appointment. The seniority to the grade of Drivers and Conductors should be drawn only by taking into account of their respective date of appointment excluding the period of voucher payment is totally unfair, unjust, unreasonable and not in accordance with law. Thus, he claimed that 64 Drivers and Conductors are entitled to have their seniority reckoned from their date of joining in the Respondent Corporation.

12. On the side of the Respondent Corporation it is urged that the 64 persons referred in the claim statement cannot compare their service conditions with those of other Drivers and Conductors of the Respondent Corporation. The said 64 Drivers and Conductors who were engaged initially on voucher payment form a distinct class by themselves. They don't come within the cadre strength of respective posts. They were not appointed to the permanent post of the Drivers and Conductors. So they don't have the right to hold the posts during the voucher payment service period. The classification of posts into different categories based on intelligible criteria is valid in law and will not amount to discrimination among the Drivers and Conductors.

13. Further, it is contented by the learned Counsel appearing for the Respondent Corporation that all the Drivers and Conductors were regularised but, all of them were not regularised with retrospective effect. The persons appointed over and above the permanent staff strength to take care of the day to day needs and to fill up the temporary vacancies cannot claim seniority similar to that of persons appointed to permanent vacancies. Hence, the claim made by the 64 persons who were initially engaged on voucher payment to be treated on par with the other Drivers and Conductors in terms of seniority cannot be accepted.

14. It is further contended on the side of the Respondent Corporation that only 40 Drivers and 40 Conductors were engaged on daily rated basis in the year 2005 and 2006. For operating new rules and additional services, Respondent Corporation decided to engage further Drivers and Conductors on voucher payment basis from the waiting list. After approval, 43 Drivers and 26 Conductors were engaged on voucher payment basis in the year 2006. The said 43 Drivers and 26 Conductors worked on voucher payment basis, they were paid on voucher basis as and when they performed duty in the vehicle. Thereafter, the Respondent Corporation decided to engage them on daily rated basis and accordingly they were engaged on daily rated basis w.e.f. 01-06-2007.

15. Further, it is contended on the side of the Respondent Corporation that EPF recoveries being deducted from the employee's salary since daily rated service. Voucher payment service has not been taken into account for any purpose. Their services have been counted from their daily rated basis. As per the Recruitment Rules, 146 Drivers and Conductors have been regularised in the Pay Band of ₹5,200-20,200. While regularising daily rated service has been taken for regularisation and voucher payment service was not counted.

16. The learned Counsel appearing for the Respondent Management relied upon 1. Rajasthan State Roadways Transport Corporation vs., Paramjeet Singh, (2019) 2 Supreme Court Cases (L & S) 37; 2. Director of Horticulture, Odisha vs., Pravat Kumar Dash, (2019) 2 Supreme Court Cases (L & S) 500; 3. Arbind Kumar vs., State of Jharkhand, (2019) 2 Supreme Court Cases (L & S) 213 and 4. Anupal Singh vs. Uttar Pradesh, (2020) 1 Supreme Court Cases (L & S) 191.

17. The sole question to decide the 1st point of reference found in the Annexure is that whether it is correct while regularising the service, the daily rated service only be counted and regularization made from the date of daily rated service or the voucher payment service has also been included as claimed by the Claim Petitioner herein?

18. Heard both on this Point. Perused the Documents. Chronologically let me deal with the facts before going into the merit of the case. The Memorandum offering appointment issued to P. Ilango, the Claim Petitioner herein who was engaged as a Driver on voucher payment basis vide Ex. P1 is dated 20-02-2006. Whereas, the Respondent Corporation, had issued an Office order by engaging 25 Drivers on daily rated basis which is dated 23-02-2006 vide Ex. P2. The date of joining mentioned in Ex. P2 for the said 25 Drivers who were appointed directly as daily rated basis is 13-02-2006, 14-02-2006, 15-02-2006 and 16-02-2006. Whereas, the

joining date of the other Drivers including the Petitioner P. Ilango who were engaged initially as voucher payment basis was mentioned as 24-02-2006.

19. As stated above, Ex.P1 is the offer of Appointment made to Mr. P. Ilango the claim Petitioner herein, only as on voucher payment basis. Ex. P3 is the Official Order, dated 08-03-2006 for engagement of Drivers on voucher payment. Ex. P4 dated 01-06-2007 wherein, offer of Appointment of said Mr. P. Ilango from Voucher Payment basis Driver to the post of daily rated basis Driver. Ex. P5 dated 28-06-2007 is an Office Order for the engagement of 44 Drivers including Mr. P. Ilango, the claim Petitioner on daily rated basis w.e.f. the forenoon of 01-06-2007. The said Mr. Ilango, the claim Petitioner herein appointed as Driver (Temporary post) vide Ex. P6, dated 16-08-2010 and vide Ex. P7 an Office Order. While drawing seniority list which has been enclosed in Ex. P8, the said Mr. Ilango and other 63 Drivers and Conductors names for whom this Industrial Dispute has been raised, found place along with their Date of Birth and the Date of Joining. Date of Joining is mentioned therein as 01-06-2007 i.e., from the date of their Appointment of Drivers and Conductors as daily rated basis from voucher payment basis (Ex. P4 and Ex. P5). Whereas, the contention and claim of 64 Drivers and Conductors is that their Date of Joining should be taken as 22-02-2006 to 27-02-2006 as mentioned in Ex. P3 i.e., from the date of their initial engagement on voucher payment basis in the Respondent Corporation. But, the Respondent Corporation has taken their date of joining as 01-06-2007 i.e., the date on which those 64 Drivers and Conductors were appointed on daily rated basis from voucher payment and based on it seniority list was drawn.

20. On the side of the Respondent Corporation Ex. R1 has been marked to show that 88 posts of Drivers and 88 posts for Conductors were approved by the Government for the creation of said posts in Respondent Corporation on 11-06-2007. Therefore, 176 posts of Drivers and Conductors were created for Pondicherry Road Transport Corporation only in June 2007 vide Ex. R1 dated 11-06-2007.

21. RW1 during cross-examination has deposed that "149 நபர்கள் ஓட்டுநர் மற்றும் நடத்துனர்கள் தேர்வு செய்யப்பட்டார்கள். அவ்வாறு தேர்வு செய்யப்பட்ட 149 நபர்களில், 40 ஓட்டுனர் மற்றும் 40 நடத்துனர்களை தினக்கூலி அடிப்படையில் நியமனம் செய்தோம். மீதியுள்ள 69 நபர்களை காத்திருப்பு பட்டியலில் வைத்திருந்தோம். காத்திருப்பு பட்டியலில் வைத்திருந்த 69 நபர்களை, அதற்கு அடுத்த வருடம் 2006-ல் voucher payment அடிப்படையில் engage செய்தோம். எமதசாஆ.1 என்ற ஆவணம் எதற்காக தாக்கல் செய்திருக்கிறீர்கள் என்றால் 2006-ல் voucher payment அடிப்படையில் எடுக்கப்பட்ட 69 நபர்களையும், 2007-ல் ஜீன் மாதத்தில் தினக்கூலி ஊழியர்களாக

நியமிக்கப்பட்டதை, காட்டுவதற்காக தாக்கல் செய்திருக்கிறோம். அதாவது, முதலில் அவர்கள் 2006-ல் voucher payment அடிப்படையில் engagement செய்தும், 2007-ல் தினக்கூலி அடிப்படையில் appointment செய்தும் இருக்கிறோம். voucher payment என்ற அடிப்படையில் எவ்விதமான நியமனம் வகைப்பாடும் இல்லாத காரணத்தினால், இம்மனுவில் கண்ட மனுதாரர்களுக்கு 2006 முதல் Seniority நியமிக்கப்பட வேண்டும் என்றால் சரியல்ல. 64 தொழிலாளர்களுக்கு பணி நியமன ஆணைக்கு எதிராக, Seniority தவறாக நியமித்துள்ளோம் என்றால் சரியல்ல. இதனால், மனுவில் கண்ட 64 தொழிலாளர்களுக்கு அவர்கள் பணியில் சேர்ந்த 2006 முதல் அவர்களுக்கு Seniority நிர்ணயிக்கப்பட வேண்டும் என்றால் சரியல்ல".

22. Admittedly, the Memorandum of offering appointment issued to Mr. P. Ilango, as Driver from voucher payment basis to Daily Rated basis is dated 01-06-2007 (Ex. P4). All were regularised w.e.f the date of their appointment as daily rated employee. Some persons were appointed initially as daily rated employees and some including the claim petitioner were appointed initially as voucher payment basis and only thereafter, they were appointed from voucher payment to daily rated in June 2007. Thus, for the category of persons who were appointed directly on daily rated basis *vide* Ex. P2 dated 23-02-2006 their date of joining were shown from as 13-02-2006 to 16-02-2006 and regularization of their services were w.e.f such date of their appointment as daily rated.

23. As per Ex. P4, dated 01-06-2007, and Ex. P5 dated 28-06-2007, Mr. P. Ilango the Claim Petitioner herein with some others were engaged by PRTC/Respondent as Driver on Daily Rated basis only w.e.f the forenoon of 01-06-2007. Before that, they were engaged as Drivers only on voucher payment basis since their induction into service. Hence, they were regularised w.e.f 01-06-2007 (date on which they engaged on daily rated basis).

24. The case of the Petitioner Union that by selection method, the Respondent selected 149 employees on merits and all these selected candidates including the 64 employees mentioned above were initially employed on daily rated basis has not been substantiated with any proof. Further, the allegation that though all the said employees were engaged from their date of joining as daily rated the Respondent initially shown 64 persons as voucher payment employees is also not sustainable in absence of documents. On the contrary, from the documents marked on the side of the Claim Petitioner itself, it is made clear that some Drivers and Conductors were initially appointed only as voucher Payment basis. The specific case of the respondent is that only the persons in the waiting list were engaged

on voucher payment basis for doing day today work and in need of exigencies. Having accepted their initial engagement in the Respondent Corporation as Drivers and Conductors on voucher payment basis *vide* written offer of appointment Ex.P1 and orders issued thereon for voucher payment basis Ex.P3, now the petitioner Union cannot turn around and say that they were initially appointed only as daily rated basis but only for the sake of making payment they were shown as voucher payment basis, which is not sustainable. No documentary proof produced to substantiate that they have questioned the same with the Respondent Corporation as to why they were shown as Drivers and Conductors appointed on voucher payment basis.

25. Though all the 149 Drivers and Conductors including these 64 persons have been regularized on the same date *i.e.*, in 2010 but, the seniority list has been drawn by taking into account of date of Appointment on daily rated basis. For all the 149 Drivers and Conductors, the date on which they were appointed on daily rated basis has been taken into account as their date of joining in the Respondent Corporation and thus, seniority list has been drawn. Since, these 64 persons were appointed initially on voucher payment basis in February 2006 and thereafter appointed as daily rated basis only in June 2007, the date of joining was taken as 01-06-2007.

26. Regularisation cannot be granted in violation of the recruitment rules in force. The benefit of regularisation should be granted strictly in accordance with the rules in force. The daily wage employees cannot claim the benefit of regularisation or permanent appointment and such claims cannot be considered in violation of recruitment rules in force. All appointments are to be made strictly in accordance with the rules in force. Even mere continuance on voucher payment or even daily wage basis would not confer any right on the employees to claim the benefit of retrospective regularisation or permanent appointment. Here in the instant case, the regularisation has been made with retrospective effect *i.e.*, from the date of their appointment on daily rated basis. Admittedly, they have already regularised with retrospective effect from the date when they were engaged as daily wage employees and were continuing in the services that being so, the claim of the Petitioner Union that the 64 persons have to be given retrospective regularization from the date of their appointment on voucher payment basis is totally untenable.

27. As such, the respondent Corporation had already extended concession to these daily wage employees and they were brought under the regular employees and

their services were regularised retrospectively from the date of their appointment on daily rated basis. Granting regularisation itself was a concession extended by the Respondent. When, the claim petitioners had already enjoyed the concession, they cannot seek retrospective regularisation with effect from the date on which they were engaged as voucher paid employees. In the event of allowing such claims, the Government may not be in a position to sanction the posts with retrospective effect.

28. The Hon'ble Constitution Bench of Supreme Court, in *State of Punjab V. Jagdip Singh and Ors.* MANU/SC/0273/1963: (1966) ILL J749SC held therein, "In our opinion, where a government servant has no right to a post or to a particular status, though an authority under the Government acting beyond its competence had purported to give that person a status which it was not entitled to give, he will not in law be deemed to have been validly appointed to the post or given the particular status." Here the 64 Drivers and Conductors involved in this claim were initially appointed only on voucher payment basis to carry out the day to day work in need of exigencies. That being so, they do not have a right to claim retrospective regularization w.e.f their appointment on voucher payment basis. Even recently, in the case of *State of Tamil Nadu and others Vs. A. Singamuthu* reported in (2017) 4 SCC 113, the Hon'ble Supreme Court of India made an observation as follows:-

"16. In State of Rajasthan vs. Daya Lal [State of Rajasthan v. Daya Lal, (2011) 2 SCC 429 : (2011) 1, this Court has considered the scope of regularisation of irregular or part-time appointments in all possible eventualities and this Court clearly laid down that part-time employees are not entitled to seek regularisation as they do not work against any sanctioned posts. It was also held that part-time employees in government-run institutions can in no case claim parity in salary with regular employees of the Government on the principle of equal pay for equal work".

29. Voucher payment employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees. In view of the legal principles settled by the Apex Court, in the matter of regularization and permanent absorption, the claim petitioners who were already regularized with effect from 01-06-2007 (from their date of appointment as daily rated employees) and therefore, they are not entitled for any retrospective regularization from the date on which they

were engaged as voucher paid employees. Consequently, the claim of the Petitioner Union that the seniority list has to be drawn by taking into account of their service on voucher payment basis holds unsustainable.

30. With regard to the transfer claim, it is submitted on the side of the Respondent Corporation that the relief sought is very vague and if relief granted, cannot be executed in the precise terms. Further it is said that as per the Transfer Policy, the Drivers and Conductors were transferred to the outlying regions. I find substance in the argument put forth on the side of the Respondent Corporation. The said claim made is not supported with any material to show that they are entitled for the said direction. From the above findings and discussions, I hold that Petitioner Union is not entitled for any relief as sought in the claim petition.

31. In the result, Reference is unjustified and the industrial dispute is dismissed. No costs.

Dictated to the Stenographer, directly typed by him, corrected and pronounced by me in open Court on this the 14th day of December, 2022.

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

List of petitioner's witness:

PW.1 — 04-07-2017 P. Ilango, President of Puducherry Road Transport Corporation Drivers and Conductors Thozhilalargal Nala Sangam.

List of petitioner's exhibits:

Ex.P1 — 20-02-2006 Photocopy of the Memorandum offering of appointment issued to P. Ilango, as Driver on voucher payment basis.

Ex.P2 — 23-02-2006 Photocopy of the Office order issued by the Respondent Corporation, engaging 25 Drivers on daily rated basis.

Ex.P3 — 08-03-2006 Photocopy of the Office order issued by the Respondent Corporation, engaging 12 Drivers on voucher payment basis.

- Ex.P4 — 01-06-2007 Photocopy of the Memorandum offering of appointment issued to P. Ilango, as Driver from voucher payment basis to daily rated basis.
- Ex.P5 — 28-06-2007 Photocopy of the Office order issued by the Respondent Corporation for engaging 44 Drivers including P. Ilango on daily rated basis. *w.e.f.* 01-06-2007
- Ex.P6 — 16-08-2010 Photocopy of the Memorandum offering of appointment issued to P. Ilango, as Driver temporary post on *ad hoc* basis.
- Ex.P7 — 02-11-2010 Photocopy of the Office order issued by the Respondent Corporation for appointment to the post of Drivers.
- Ex.P8 — 25-10-2012 Photocopy of the representation of the Petitioner Union made to the Labour Commissioner, Pondicherry.
- Ex.P9 — 14-03-2013 Photocopy of the representation made to the Labour Officer (Conciliation), Puducherry.
- Ex.P10 — 18-07-2013 Photocopy of the reply submitted by the Respondent Corporation to the Labour Officer (Conciliation), Puducherry.
- Ex.P11 — 19-12-2013 Photocopy of the report on failure of conciliation.
- Ex.P12 — 09-09-2008 Photocopy of the Recruitment Rules of the Respondent Corporation.

List of respondent's witness:

- RW1 — 12-09-2019 Kishore Kumar, General Manager & Company Secretary, Puducherry Road Transport Corporation, Puducherry.

List of respondent's exhibits :

- Ex.R1 — 11-06-2007 True copy of the order of the Transport Secretariat under G.O. Rt.No.12/2007/Tr.Sec relating to the approval of the Government of the creation of posts for Puducherry Road Transport Corporation.

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

புதுச்சேரி அரசு

**துணை மாவட்ட ஆட்சியர் மற்றும்
நில ஆர்ஜித அதிகாரி அலுவலகம்,
காரைக்கால்**

எண். 1445/DCR/LA/BI/CPCL/2017/222.

அறிவிப்பு

இதனால் தெரிவிப்பது என்னவென்றால், இந்திய அரசின் பொதுத்துறை நிறுவனமான, சென்னை எண்ணெய் சுத்திகரிப்பு ஆலை (CPCL) தேவைக்கேற்ப, புதுச்சேரி அரசு, காரைக்கால் மாவட்டம், காரைக்கால் தாலுக்கா, வாஞ்சூர் வருவாய் கிராமத்தில், 9 MMTPA எண்ணெய் சுத்திகரிப்பு ஆலைக்கு வாஞ்சூரிலிருந்து நாகப்பட்டினம் மாவட்டம், பனங்குடி வரை, குழாய் அமைக்கும் பணிக்காக நிலம் கையகப்படுத்துவதற்காக, புதுச்சேரி, சமுதாய தாக்கக் கணிப்பு ஆய்வினை மேற்கொள்ளும் பொருட்டு, 'சமுதாய தாக்கக் கணிப்பு குழு' அரசால் அமைக்கப்பட்டது.

இந்த சமுதாய தாக்கக் கணிப்பு குழு, தனது சமுதாய தாக்கக் கணிப்பு அறிக்கையை இவ்வலுவலகத்தில் சமர்ப்பித்துள்ளனர். 2013-ஆம் ஆண்டு, நிலம் கையகப்படுத்துதல், மறுவாழ்வளிப்பு மற்றும் குடியமர்வில் நேரிய சரியீடு மற்றும் வெளிப்படைத்தன்மை உரிமைச் சட்டம் பிரிவு 6-ன் படியும் மற்றும் 2016-ஆம் ஆண்டு, நிலம் கையகப்படுத்துதல், மறுவாழ்வளிப்பு மற்றும் குடியமர்வில் நேரிய சரியீடு மற்றும் வெளிப்படைத்தன்மை உரிமை விதிகள்-விதி எண் 12-ன் படி, இவ்வறிக்கைகள் கீழ்க்கண்ட அலுவலகங்களில் பொது மக்கள் மற்றும் நில உரிமையாளர்கள் பார்வைக்காக வைக்கப்பட்டுள்ளது. இந்த அறிவிப்பு வெளியிட்ட தேதியிலிருந்து 15 நாட்களுக்குள் பொதுமக்கள் மற்றும் நில உரிமையாளர்கள் அவ்வலுவலகங்களில் வேலை நாட்களில் பார்வையிட வேண்டுகையை பதிவு செய்துகொள்ளலாம்.

1. மாவட்ட ஆட்சியர் அலுவலகம், எண் 1, டீப்ளக்ஸ் தெரு, காரைக்கால்.
2. துணை மாவட்ட ஆட்சியர் அலுவலகம் (வருவாய்), எண் 2, டீப்ளக்ஸ் தெரு, காரைக்கால்.
3. வட்டாட்சியர் அலுவலகம், காரைக்கால்.
4. கொம்பயூன் பஞ்சாயத்து அலுவலகம், T.R. படபினம், காரைக்கால்.