



புதுச்சேரி மாநில அரசிதழ்

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பொருளடக்கம்

SOMMAIRES

CONTENTS

	பக்கம்		Page		Page
தொழில் நீதிமன்றத் தீர்ப்புகள் ..	384	Sentence arbitral du Travail de Tribunal.	.. 384	Award of the Labour Court ..	384
அரசு அறிவிக்கைகள் ..	392	Notifications du Gouvernement ..	392	Government Notifications ..	392
ஒப்ப அறிவிப்புகள் ..	395	Avis d' appel d' offres	.. 395	Tender notices	.. 395
சாற்றறிக்கைகள் ..	398	Annonces	.. 398	Announcements	.. 398

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 21/AIL/Lab./T/2023,
Puducherry, dated 17th February 2023)

NOTIFICATION

Whereas, an Award in I.D (L) No. 31/2018, dated 07-01-2023 of the Industrial Tribunal-cum-Labour Court, Puducherry in respect of Dispute between the M/s. MRF Limited, Nettapakkam Commune, Puducherry and Thiru V. Vignesh, Villupuram District over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/9/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.

Saturday, the 07th day of January, 2023.

I.D. (L) No. 31/2018
C.N.R. No. PYPY06-000061-2018

Vignesh S/o. Veerappan,
Palliputhupattu,
Mandagapattu Post,
Villupuram District,
Tamil Nadu.

. . Petitioner

Vs.

The Managing Director,
M/s. MRF Limited,
No. 1, Eripakkam Village,
Nettapakkam Commune,
Puducherry.

. . Respondent

This Industrial Dispute coming on 19-12-2023 before me for final hearing in the presence of Thiru T. Veeraselvam, Counsel for the Petitioner, Thiruvalaragal L. Swaminathan and I. Ilankumar,

Counsel for the Respondent, and after hearing the both sides 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.107/AIL/LAB/T/2018 dated 21-06-2018 of the Labour Department, Puducherry to resolve the following dispute between the Petitioner and the Respondent, *viz.*,

(a) Whether the dispute raised by the Petitioner Thiru. V. Vignesh, Villupuram District against the Management of M/s. MRF Limited, Nettapakkam Commune, Puducherry over non-employment 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 averred in the claim petition:*

The Petitioner had worked at M/s. MRF Limited Puducherry in apprenticeship training from 01-06-2008 onwards and on 02-08-2010 a criminal case under section 381 of IPC was registered by the Station House Officer, Nettapakkam Police Station, Puducherry, alleging that the Petitioner had stolen the Laptop from the Respondent Company and that he was trying to sell the same at Thirubuvanai Bus Stop, Pondicherry and he was remanded to Judicial custody. The Petitioner has approached the Respondent Management to join duty, but, the Respondent Management refused to give employment to the Petitioner stating that criminal case is pending against him and due to long absenteeism, the Respondent Management terminated the Petitioner from service on 20-08-2010. The said absence of the duty by the Petitioner was due to the complaint made by the Respondent Management. The Respondent Management lodged the complaint on 02-08-2010 and he was arrested by the Police and remanded to Judicial custody till 20-08-2010 and the Petitioner was not failed to attend the duty on his own. After trial the Judicial Magistrate Court has decided that the Petitioner had not stolen the Laptop of the Respondent Management and as such, on 20-10-2016 the Petitioner was discharged/acquitted from the criminal case *vide* Judgment passed in CC 380/2010 by the Judicial Magistrate-I Court, Puducherry. The Petitioner sent a Registered post to the Respondent Management for reinstatement of him, but, the Respondent Management did not respond the Petitioner's plea. Therefore, the Petitioner had

approached the Labour Officer (Conciliation), Pondicherry for non-employment of the Petitioner and they conducted an enquiry between parties and on 16-05-2018, it was decided by the Labour Department that as there was no possibility to make an amicable settlement between the Petitioner and the Respondent Management, the matter was ended in failure in the last proceedings held on 19-01-2018 and referred the matter for adjudication.

(ii) The Petitioner had completed Higher Secondary Course (12th Standard). The Petitioner does not require any kind of money/compensation which may be given by the Respondent Management, but, he needs reinstatement in the Respondent Management company. Because, the Petitioner was not able to join in any other company with the bad name that he had stolen the computer from the Respondent Management though he was acquitted from the alleged charges. In order to maintain his family, he is having wife and children and his aged parents, he wants employment in the Respondent Management and if, the case of this Petitioner is not considered by the Respondent Management, then the Petitioner will be stranded into streets. The Petitioner is having every right to get reemployment in the Respondent Management as he has not committed any theft and it was decided by the Court that he is not guilty of the offences. The Petitioner undertakes that he would attend the duty sincerely and he would abide by the employment conditions of the Respondent Management at all times in the event of giving employment to the Petitioner by the Respondent Management. Hence, the Petitioner prays to direct the Respondent Management to reinstate the Petitioner in the Respondent Management in the similar post/job or any other suitable job and other attendant charges, perks and allowances. Hence, the petition.

3. The brief averments of the counter filed by the respondents are as follows:

The claim Petitioner Vignesh was issued with an order of apprenticeship dated 01-06-2008 at MRF Limited, Eripakkam, Nettapakkam Commune, Puducherry, as an Apprentice Trainee under the Apprenticeship Scheme of the Respondent Management. As per the terms of the order of Apprenticeship issued to the claim Petitioner herein, the Apprenticeship Training will be for a period of 42 months in 4 spells and the claim Petitioner was initially engaged for a period of 6 months with effect from 01-06-2008. During the period of each spell, the Respondent Management

will assess the performance of the Apprentice Trainee as envisaged in the Training Scheme and based on the assessment he will be moved to the next spell of training.

(ii) The clause 3 of the Certified Standing Order of the M/s. MRF Limited, Puducherry, speaks about the classification of workman and clause 3.6 deals with Apprenticeship under Company Training Scheme and accordingly:

“Company Training Scheme/Trainee means a Learner who is paid stipend and whose terms and conditions are governed by the provisions of the Apprentices Act, 1961 and the amendments thereof or one who is recruited to undergo Apprenticeship as per Company’s Scheme either as Production Apprentice or Engineering Apprentice or Apprentice for Service Department. The Apprenticeship period will be for 42 months comprising 4 spells, the first spell is for 6 months and the remaining 3 spells each are for one year duration and the Company is not obliged to employ after the Conclusion of their Apprenticeship.

At the expiry of any spell each Trainee will be assessed and evaluated and on satisfactory completion of the Training in each spell, the Trainee will be put on to Training for next spell. On completion of the total Apprenticeship period the Services will be automatically terminated. However, they may be considered for the post of Probationer on satisfactory completion of Training by the Company at its discretion depending upon the exigencies and vacancy position. The Status as an Apprentice will not change until it is changed by the company in writing.....”

(iii) Being the Certified Standing Order of the Respondent Management, the said clause 3.6 is applicable to the claim Petitioner Vignesh and this clause is in vogue for all the factories of the Respondent Management located in Goa, Medak, Kottayam and Puducherry.

(iv) The Termination of the Trainee (Apprentice) either by efflux of time or the Trainee not reporting for training or the Trainee indulging in, in-disciplinary activities during the training period, the aggrieved trainee cannot claim continuation of training or reinstatement as a matter of right as the apprentice cannot re-designate himself as a workman on par with the regular workmen. The individual Apprenticeship Order dated 01-06-2008 issued to the claim Petitioner as mentioned supra would speak for itself on the terms and conditions of Apprenticeship Training in the Respondent Management and hence, the relief sought by the claim Petitioner lacks merit, substance and deserves no consideration even remotely.

(v) Therefore, in all probabilities, the reference to adjudicate on the claim of the claim Petitioner who is an Apprentice Trainee is bad under Law and cannot be entertained by this Court and the present Industrial Dispute deserves to be dismissed as devoid of merits.

(vi) The Apprenticeship Act did not make provision for NAC Apprenticeship for any trade connected with Tyre industry, the Respondent Management was obliged to evolve its own Training Scheme. As the workmen have to be imparted knowledge about various types of materials, parts, machines, processes, etc., it was felt that the Training should be "on the job training" for a period lasting 42 months, of which after initial orientation, the first level of training will be for six months to be followed by three different spells of training each lasting one year. There are no ITI Courses regarding manufacturing of Tyres and only the Respondent Management had to impart Training. The Respondent's Management being in Union territory of Puducherry, the Model Standing Orders framed by the Central Government were applicable. Clause 2 (g) of the Model Standing Orders framed by the Central Government defines an Apprentice to mean "a learner who is paid allowance during the period of his training" and no period has been stipulated for the period of Apprenticeship.

(vii) In the year 2001, the Respondent Management submitted Draft Standing Orders for certification. Taking note of the system of training prevailing in the Respondent's establishment and also in the absence of mention of any trade connected with the Tyre Industry dealt with under the Apprenticeship Act, provision was made to define Apprentices as "Apprentices under the Apprenticeship Act 1961, under Company Trading Scheme/Trainee" (Clause 3.6). Based on the Joint Memorandum between the Unions and the Respondent Management on 10-07-2003, the Standing Orders were certified. After certification of the Standing Orders on 10-07-2003, the Respondent Management has been engaging trainees in terms of the Certified Standing Orders.

(viii) During the period of his training the claim Petitioner Vignesh was lethargic and envisaged the least interest in learning the job and was irregular in his attendance which was also intimated through Phonogram, dated 23-06-2010 through Inter-Office Memorandum dated 28-05-2010 of the Truck Curing Department to the Manager-Truck, it has been referred about the in-disciplinary actions of the claim Petitioner Vignesh in not obeying the orders of the superiors and the claim Petitioner Vignesh had remained unauthorizedly absent from Training continuously from 02-08-2010 onwards.

(ix) The Respondent Management herein had registered a complaint as against the claim Petitioner and two others on 02-08-2010 before the Station House Officer, Nettapakkam Police Station, Puducherry, under FIR No.85/2010 regarding the theft/selling of Laptop stolen from the Truck Curing Department of the Respondent Management and the claim Petitioner along with two other employees were arrested and remanded. A Criminal case u/s.340, 414 IPC r/w 34 IPC was registered against the claim Petitioner and the other two employees of the Respondent Management who were remanded to judicial custody and released on bail. Since, the claim Petitioner had not reported for duty from 02-08-2010, the Respondent Management had terminated the Apprenticeship Trainee from the service with effect from 20-08-2010 for willfully abandoning the training as referred to in Order dated 20-08-2010.

(x) The claim Petitioner after a period of nearly 7 years had submitted a petition dated 19-05-2017 to the Labour Officer (Conciliation), Puducherry, by admitting the fact that he was arrested on 02-08-2010 and was remanded to Kalapet Jail and later released on bail and stated that the Respondent Management had terminated his Apprenticeship Training on 20-08-2010 citing, the reasons of long absenteeism. Further, the Criminal Case initiated against the claim Petitioner under C.C380/2010 had ended in acquittal and therefore, requested the Labour Officer (Conciliation), Puducherry, to intervene for reinstatement into services.

(xi) The Respondent Management has submitted a detailed response dated 18-09-2017 by highlighting about the terms and conditions of the Apprenticeship Order and as the claim Petitioner remained unauthorizedly absent from training from 02-08-2010, the Respondent Management had terminated the Apprenticeship Training on 20-08-2010.

(xii) The Labour Officer (Conciliation), Puducherry, failed the Conciliation and referred the matter for adjudication. The claim Petitioner is estopped from seeking reinstatement for training as the Respondent Management had invoked the clauses of the Apprenticeship order issued to the claim Petitioner for termination of the training as it is an admitted fact that the claim Petitioner did not report for training from 02-08-2010 onwards. The claim petition cannot be entertained as the claim Petitioner was terminated from training only on the ground of unauthorized absence from 02-08-2020 onwards and not otherwise.

(xiii) Merely because the Criminal Case under C.C.380/2010 had ended in acquittal on 20-10-2016, it cannot be considered as a ground for automatic

reinstatement for continuation of the Apprenticeship Training. Further, the claim Petitioner was terminated even before the completion of 42 months of training period for remaining unauthorizedly absent from 02-08-2010 onwards as admitted by the Petitioner and there cannot be any continuation of training after a period of nearly 7 years from the termination of training period.

(xiv) Even assuming without admitting, the terms and conditions of the Apprenticeship Order stipulate that "the Company does not guarantee any automatic confirmation in Services at the end of Apprenticeship period". The claim Petitioner was terminated from training for the reasons stated in the letter dated 20-08-2010 which is in the midst of the training period and has no *locus-standi* to claim it as a matter of right and discipline cannot be compromised even remotely even during the period of Apprenticeship.

(xv) The claim Petitioner while joining as apprentice in the Respondent Management and is not estopped from challenging the said Clauses of the Apprenticeship Order and on the date of the Termination they continued to be as Apprentices only. The claim Petitioner was not issued with any Written Order of Probation and therefore, the relief for reinstatement cannot be entertained. Hence, prayed for dismissal of the claim petition.

4. Point for determination:

Whether the Petitioner is entitled for an order to reinstate him in the Respondent Management in the similar post/job or any other suitable job and other attendant charges, perks and allowances as claimed in the claim petition?

5. On Point:

Petitioner himself examined as PW1 and Ex.P1 to P5 were marked. During cross examination of PW1, on respondent side Ex.R1 to R9 were marked. One Jeyakumar, Deputy Manager (HR) of Respondent Company examined as RW1. Through him Ex.R10 to R14 were marked.

6. On the Point:

This Industrial Dispute has been referred over non-employment of the claim Petitioner. According to the Petitioner, he was an Apprentice under the Respondent Company from 01-06-2008. While so, on 02-08-2010 a criminal case was registered against him under section 381 of IPC charging him that he had stolen a Laptop from the Respondent Company. The Respondent Management terminated him from service on 20-08-2010 for the reason of long absenteeism and pending Criminal Case. After a full trial, the said

Criminal Case was ended in acquittal thereby acquitting the Petitioner from the charges on 20-10-2016. He therefore, approached the Respondent Management for his reinstatement. But, it was declined. Thereafter, he approached the Labour Officer (Conciliation), Puducherry and the same is ended in failure. Thus, the dispute has been referred before this Court.

7. It is contended on the side of the Petitioner that though he was acquitted from the alleged criminal charges. Petitioner is not able to join any other employment with the *stigma* attached due to the allegations made by the Respondent Management. Thus, he prayed for reinstatement in the Respondent Management with all other benefits.

8. The learned counsel appearing for the Petitioner also referred and relied upon CDJ 1994 SC 1065 wherein, it is observed that after the apprentice period, the employee was made to work in a C Grade job against a clear vacant which occurred due to a transfer of a person who was working in the said job. The Labour Court held that he was a workman and the same was set aside by the Hon'ble High Court. But, in the Civil Appeal, the Hon'ble Supreme Court of India reinstated the employee and held that he is a workman and thereby confirmed the Judgment of the Labour Court. This referred case is not applicable to the present case on hand. In the above referred case apprentice period was over and the employee was working in the vacant post of Grade C. Whereas, in the present case, the claim Petitioner had joined as apprentice and not completed his apprenticeship. During his apprenticeship training, his Apprenticeship period got ceased. Hence, this case is not applicable to the present case.

9. Other case laws relied on the Petitioner side which has been reported in CDJ 2003 GHC 182 wherein, the Hon'ble High Court of Gujarat has observed that, no training was given to the workman under the Apprentice Act and he should be considered as workman under section 2(s) of the Industrial Disputes Act. The workman was appointed in 1989 and his services terminated in 1990 under the provisions of Apprentice Act 1961 but, the agreement of Apprentice has not been registered, it was held as that he was an workman. CDJ 2005 MHC 815- The whole object of Industrial Law is to help the weaker section in the society (the workmen) and give them protection from exploitation. In our opinion, there can be no estoppel against a person who accepts his designation as an apprentice, but later on raises a plea that in fact he was not an apprentice but was doing the work of a workman. CDJ 1994 SC 709 and CDJ 1994 SC 1065.

10. Whereas, in this case there is an Apprentice Appointment Order and the Respondent Management evolves its own Training Scheme. As the workmen have to be imparted knowledge about various types of materials, parts, machines, processes, *etc.*, the Training imparted “on the job training” for a period lasting 42 months. Admittedly, the training was not completed. Before the completion of training, the claim Petitioner’s service got terminated due to his long absenteeism. Hence, the case laws relied by the Petitioner counsel are not applicable to the present case in hand.

11. On the other hand, it is contended by the Respondent Management that Petitioner was issued with an Order of Apprenticeship on 01-06-2008 as an Apprentice Trainee under the Apprenticeship Scheme of the Respondent Management. As per the Apprenticeship Training Order, the claim Petitioner has to undergo 42 months training in 4 spells. During each spell the Respondent Management will assess the Performance of the Apprentice trainee as envisaged in the training scheme and based on the assessment, he will be moved to the next spell.

12. It is also contended that as per clause 3.6 of the Certified Standing Order of the Respondent Management on completion of the total Apprenticeship period, the services will stand automatically terminated. May be considered for the post of Probationer on satisfactory completion of training by the company at its discretion depending upon the exigencies and vacancy position. The status as an apprentice will not change until it is changed by the company in writing. Termination of the trainee (Apprentice) either by efflux of time or the trainee not reporting for training or the trainee indulging in, in-disciplinary activities during the training period, the aggrieved trainee cannot claim continuation of training or reinstatement as a matter of right as the Apprentice cannot redesignated himself as a workman on par with regular workman.

13. The learned Counsel appearing for the Respondent Management relied upon High Court of Gujarat at Ahmedabad in Special Civil Application No. 15497 of 2007-Shankarbhai LebbhaiVankar *vs.* Executive Engineer, wherein, it is held that “In present petition, the Petitioner has challenged award dated 05-04-2007 passed by the learned Labour Court in Reference (LCH) No. 163 of 2002 whereby the learned Labour Court rejected the reference in light of the finding of fact that the claimant was engaged as Apprentice under provisions of the Apprentices Act, 1961 (‘the Act’ for short) and that, therefore, the claimant cannot be termed ‘workman’ and consequently, the reference would not be maintainable and cannot be

adjudicated”. In this case, Hon’ble Gujarat High Court has confirmed the finding of Labour Court that the claimant was engaged as Apprentice under provisions of Apprentice Act 1961 and that therefore, he cannot be termed as “workman” under Section 2(s) ID Act, 1947 the reference cannot be entertained. Next case laws relied is Punjab & Sind Bank and Ors. *vs.* Sakattar Singh on 29 November 2000 decided by the Hon’ble Supreme Court of India in Appeal (Civil) 12795 1996; In Chandubhar Punjabhai Talpada *vs.* Deputy Executive Engineer decided by the Hon’ble High Court of Gujarat at Ahmedabad.

14. Therefore, it is first and foremost to decide that whether the Apprentice involves in this Industrial Dispute falls under the category of workman as defined under section 2(s) of ID Act? Under the provisions of section 2(s) of ID Act, Apprentice is included in the category of workman. The opening words of section 2(s) of ID Act is such it specifically denotes that any person including an Apprentice is a workman. Therefore, under ID Act an Apprentice is a workman. Whereas, the standing order of Respondent Management filed and marked as Ex.R1 through PW1 during cross-examination. In the Certified Standing Order Ex.R1, the clause 3.6 runs thus, “Apprentice under Apprenticeship Act 1961, under Company Training Scheme/Trainee” means a learner who is paid a stipend and whose terms and conditions are governed by the provisions of the Apprentices Act, 1961 and amendments thereof or one who is recruited to undergo Apprenticeship as per the company scheme either as Production Apprentice or Engineer Apprentice or Apprentices for Service Department. The status as an Apprentice will not change until it is change by the company in writing. During the time of Apprenticeship they will receive only stipend. At the expiry of any spell trainee will be assessed and evaluated and on satisfactory completion of the training in each spell, the trainee will be put on training for the next spell. On completion of the total Apprenticeship period, the services as an Apprentice will stand automatically terminated. However, they may be considered for the post of probationer on satisfactory completion of training by the company at its discretion depending upon the exigencies and vacancy position. Further, in the same Ex.R1 Standing Orders for employees of the Respondent Management in Clause 22.0 Termination of Employment: Clause 22.1 subject to the provisions relating to the misconduct as provided in this service conditions, the service of the workman may be terminated by the company for a reasonable cause giving one month notice in writing or wages in lieu

thereof. However, no notice/wages *in lieu thereof* shall be necessary in case of a Probationary/Casual/Temporary/Apprentice/Trainee/Part-time workman.

15. As per section 18 of the Apprentices Act, 1961 Apprentices are trainees and not workers. -Save as otherwise provided in this Act,-

(a) every apprentice undergoing apprenticeship training in a designated trade in an establishment shall be a trainee and not a worker; and

(b) the provisions of any law with respect to labour shall not apply to or in relation to such apprentice.

According to section 2(r) in The Apprentices Act, 1961-18 [(r) "worker" means, any person who is employed for wages in any kind of work and who gets his wages directly from the employer, but, shall not include an apprentice referred to in clause (aa)].

16. Hence, from the above provisions of the Apprenticeship Act 1961, an Apprentice is not a workman whereas, as per the Industrial Disputes Act, a workman includes an Apprentice. But, when an apprentice is appointed under the Apprentices Act, 1961 he is not a workman under section 2(s) of the Industrial Disputes Act, 1947. An apprentice, after completion of his apprenticeship is not having any legal right to demand regularization from the employer. As per provision of the Apprentices Act, 1961, an apprentice is a trainee and not a worker/workman. The Provisions of labour laws shall not be applicable to an apprentice for seeking any relief from the management under the Industrial Disputes Act, 1947. Appointment letter, indicating that petitioner was engaged as apprentice in trade of Lineman against stipend under the Act of 1961 by entering into required contract which was informed to Apprenticeship Adviser, is a sufficient proof to establishment that the petitioner was an apprentice and not a workman. Shankarbai Lebabhai Vankar vs. Executive Engineer and Ors. 2017 (Guj. H.C.)

17. The Apprentices Act, 1961 is a special Act as regards, the regularization and training condition of the Apprentices are concerned. Only for the purpose of Verification of Membership and Recognition of Trade Unions, the Rules, 1994, which adopts the definition of 'workman' as provided in section 2(s) of the I.D. Act, 1947 shall be special laws and the Apprentices Act, 1961 is a general law in that field. Therefore, The I.D. Act, 1947 and Rules, 1994 must prevail over the Apprentices Act, 1961 only so far the issue as to whether an apprentice is a workman for the purpose of verification

of membership and recognition of Trade Union is concerned (M/S Larsen & Toubro Limited vs State Of Orissa and Others... Opp.... on 4 March, 2011).

18. In Maya Mathew vs. State Of Kerala and Ors. on 18 February, 2010, the Hon'ble Apex Court held that Special Rules being later in point of time would prevail over the General Rule. When the rule making authority being aware of existence of provisions concerned of General Rules, and it chooses to subsequently make a contrary provision in Special Rules, it is to be inferred that the subsequent rule was intended to prevail over the General Rule.

19. Therefore, the claim Petitioner who was appointed as Apprentice under Apprenticeship Act, 1961 by the Respondent Management cannot be placed under the workman category. As discussed above as per the Apprenticeship Act, 1961 Apprentice is not a workman under section 18 and 2(r) of the Act. Though section 2 (s) of ID Act includes an Apprentice as workman only for the purpose of Verification of Membership and Recognition of Trade Unions, the Rules, 1994, which adopts the definition of 'workman' as provided in Section 2(s) of the I.D. Act, an apprentice appointed under Apprenticeship Act 1961 as found in this case cannot be termed as workman for the purpose of the regularization and training condition of the Apprentices are concerned. Therefore, the claim Petitioner is not a workman.

20. In National Small Industries Corporation Limited case, the point for decision was whether in view of section 18 of the Act, 1961. the 1st Additional Labour Court, Chennai, was justified in holding that the respondent who had been appointed as an apprentice by the appellant therein was a 'workman' within the meaning of section 2(s) of the I.D. Act, 1947 and the termination of the respondent's apprenticeship was in violation of section 25-F of the I.D. Act and consequently he was entitled to reinstatement and continuity in service with all back wages and other concessions accrued to him. The Hon'ble Apex Court held that even if, it is accepted that respondent was a 'workman' within the meaning of the I.D. Act on account of contractual tenure his case would come within the exception of Clause (bb) of section 2(oo) of the Act thereof. In such case also the provision of section 25-F of the I.D. Act, 1947 would have no application to the respondent's case.

21. Since he is not a workman and his employment was under contract *i.e.*, Apprentice Order Ex.Pl. Even if, it is considered as workman, he comes under the exception clause of 25(oo) (bb) of Industrial Disputes Act, 1947. Therefore, he is not entitled for any relief under section 25 (F) of the I.D. Act.

22. The next point needs consideration is whether stigma attached to him on the issuance of Termination order Ex.R6. Termination of the claim Petitioner's services as Apprentice was made under Ex.R6. On close and careful perusal of Ex.R6, I don't find anywhere about the allegation of Criminal charges nor Criminal case as a reason for his termination. The reason stated for the cessation of Apprenticeship period with immediate effect is due to continuous unauthorized absence from 02-08-2010. It is also mentioned in Ex.R6 that during the Apprenticeship period, the claim Petitioner was not showing interest in learning the job. Therefore, as per clause 8 of the Apprenticeship Appointment Order Ex.P1 during each spell of the training, Apprenticeship is liable to be terminated by the company without notice or assigning any reason thereto. In Clause 13 of Ex.P1 Apprenticeship Appointment Order it is mentioned that the claim Petitioner will be subject to the Standing Orders and the Rules and Regulations of the company as are in force from time to time. Similarly, in Clause 15 of Ex.P1 there is a clear mention that if guilty at any time of neglect of work, insubordination, indulgence or abetment of any misconduct involving moral turpitude or breach of any of the terms and conditions of the Appointment, the company shall have the right to terminate the appointment without notice or compensation *in lieu of* notice.

23. On the Respondent Management side, Ex.R10, R3 and R4 are marked to show that he was not a regular attendee of training work during his Apprenticeship period. Ex.R4 is a leave letter of the claim Petitioner seeking leave on 22-07-2010 and 25-07-2010. In which the Claim Petitioner has given assurance that he will not go on leave in future. Ex.R3 is a phonogram issued by the Officer - HR of the Respondent Management to the claim Petitioner informing his unauthorized absence from 16-06-2010 to 23-06-2010 and intimating to report HR Department immediately or else action will be taken. Ex.R10 is inter office memorandum, dated 28-05-2010 regarding disciplinary lagging wherein, it is mentioned about the claim Petitioner's insubordination and arrogant behaviour at work place. Though, these exhibits were marked on the Respondent side, but, in the Termination Order Ex.R6, dated 20-08-2010, nothing mentioned against the claim Petitioner so as to attach any stigma against him. The only reason stated in the Termination Order Ex.R6 is his unauthorized long absent. Therefore, as per the Apprenticeship Appointment Order Ex.P1 and the Standing Order Ex.R1, the Respondent Management has the discretion to terminate the period of Apprenticeship if, there is any violation of terms and conditions found therein under the contract Ex.P1.

24. In *Sk. Akbar Alii vs State Of Odisha And Others* on 9 March, 2022 it has observed "in *Southern Railway Officers' Association vs. Union of India* (2009) 9 SCC 24, wherein, it was observed that acquittal in a criminal case by itself cannot be a ground for interfering with an order of punishment imposed by the disciplinary authority as the position of law is well settled that an order of dismissal can still be passed even if, the delinquent had been acquitted of the criminal charge. Another decision in *Inspector General of Police vs. Samuthiram* (2013) I SCC 598 was also referred to by the Supreme Court in *Heem Singh* case to hold that unless the accused has an honourable acquittal in the criminal case as opposed to an ordinary one shall not affect the decision in the disciplinary proceeding leading to an automatic reinstatement. The meaning of the expression 'honourable acquittal' was under consideration before the Supreme Court in *RBI vs. Bhopal Singh Panchal* (1994) I SCC 541 and in that case, it was held that mere acquittal does not entitle an employee to reinstatement in service and the acquittal has to be honourable, which means, the accused is said to be fully acquitted of blame or exonerated and the aforesaid decision was also quoted with approval in *Heem Singh* case. In fact, the celebrated and judgment legal classicus on the subject is of the Supreme Court in *R.P. Kapur vs. Union of India* AIR 1964 SC 787 in which it was held that even in the case of acquittal, departmental proceeding may follow where the acquittal is other than honourable. In *Dalbir Singh* case (supra), the Supreme Court affirmed the view that a disciplinary action cannot be stifled unless the foundation is based on a false case or no evidence. Again in *State of Assam vs. Raghava Rajgopalchari* 1972 SLR 44 (SC), the Supreme Court borrowed the view expressed in *Robert Stuart Wauchope vs. Emperor* ILR (1934) 61 Cal. 168, wherein, the expression 'honourably acquitted' was elaborated upon and defined.

Para 10. Referring to the decisions discussed herein above, the Court is of the view that notwithstanding an order of acquittal which does not fully and completely exonerate the delinquent from a criminal charge, it would not entitle him to claim that the disciplinary proceeding should be dropped or for that matter, the punishment imposed as result to be set aside. The terminologies, such as, 'ordinary acquittal' and 'honourable acquittal', as observed by the Supreme Court, have emerged from judicial pronouncements. In case, where the Court records that the accused has been falsely implicated and that there was absolutely no evidence to connect him to the crime, then it is treated as an 'honourable or clean acquittal'. However, if, for various reasons, such as, lack of evidence, benefit of doubt, prosecution witnesses turned hostile or star

witness resiled during trial, it would only result in an acquittal and not an acquittal honourably. There is no tenebrosity in the settled principles of law that if, there is acquittal on certain grounds like benefit of doubt, *etc.* from the charge of an offence involving moral turpitude, it would not automatically entitle exoneration from the disciplinary action.

It is reiterated that an acquittal which is due to want of evidence is not an honourable acquittal. If, after full consideration of evidence, the same is disbelieved and the prosecution said to have miserably failed to prove the charges; or it is held to be false case; or neither to be a false case nor acquitted on the ground of benefit of doubt, under such circumstances, an acquittal may have to be held as honourable or acquittal of all blame".

25. Therefore, by applying the above ratio and on perusal of Ex.P4, the Judgment in the Criminal Case, I find that it is not first of all acquittal as a false case or the claim Petitioner was falsely implicated in the said offence. Therefore, on perusal of the Judgment Ex.P4, I would say that it is not a honorable acquittal. Further, mere acquittal and discharging from the criminal charges by the Court will not automatically create a right for the claim Petitioner to be reemployed as an Apprentice for the reason that he was not terminated from the services of Apprenticeship due to his criminal charge. His termination was on the reason of long absenteeism, not as he involved in a criminal case. Therefore, the acquittal from the criminal charge will not help the claim Petitioner any way to get the relief in his favour.

26. The learned Counsel appearing for the Respondent referred and relied upon a case law wherein it has been observed by the Hon'ble Supreme Court of India in Appeal (Civil) 3791 of 2003, dated 09-03-2005 that no evidence was led by the Respondent-Workman that he had made any effort to seek reinstatement or complained against the termination. Here in the instant case also the claim Petitioner has approached the Respondent Management only in 2017 (Ex.P3), after 7 years from the date of his Termination Order. No proof produced to show that he approached immediately after his termination. Therefore, the case law relied also squarely applicable to this case.

27. From the above discussions and findings, I hold that the claim Petitioner is not a workman as per the Apprenticeship Act 1961, he is not entitled for any reliefs under the provision of section 25(F) of the Industrial Disputes Act, his termination of services from the Apprenticeship was only due to long unauthorized absenteeism and Respondent Management has shown that it got discretion to discontinue the Apprenticeship during the period of Apprenticeship as envisaged under

the Apprenticeship Appointment Order Ex.P1 and Standing Order Ex.R1. Thus, the Termination Order Ex.R6 holds good and not liable to be set aside. Thus, the point for determination is decided as against the claim Petitioner.

28. In the result, the 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 07th day of January, 2023.

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

List of petitioner's witness:

PW1 — 18-12-2019 Thiru. Vignesh

List of petitioner's exhibits:

Ex.P1 — 01-06-2008 Photocopy of the Apprenticeship order issued by the General Manager of Respondent.

Ex.P2 — 02-08-2010 Photocopy of the FIR Registered against the Petitioner on the Complaint of the Chief Security Officer, MRF Limited.

Ex.P3 — 06-04-2017 Photocopy of the letter given by the Petitioner to the General Manager of the Respondent.

Ex.P4 — 20-10-2016 Photocopy of the Judgment in CC 380/2010 against; it his Petition and 2 others.

Ex.P5 — 16-05-2018 Photocopy of the Failure Report given by the Labour Officer (Conciliation), Puducherry

List of respondent's witness:

RW1 — 08-07-2022 Jeyakumar

List of Respondents's Exhibits:

Ex.R1 — — Certified Standing Order of MRF Limited, Puducherry.

Ex.R2 — 31-07-2008 Photocopy of the letter on revision of stipend to the Claim Petitioner.

<p>Ex.R3 — 23-06-2010 Photocopy of the Phonogram sent to the Claim Petitioner.</p> <p>Ex.R4 — — Photocopy of the letter seeking permission for Leave.</p> <p>Ex.R5 — 20-10-2016 Photocopy of the Judgment in CC 380/2010 of the Judicial Magistrate - I, Puducherry.</p> <p>Ex.R6 — 20-08-2010 Photocopy of the Termination Order issued to the Claim Petitioner.</p> <p>Ex.R7 — 07-06-2017 Notice of Remarks of the Labour Officer (Conciliation) Puducherry under No.755/LO(C)/AIL/2017 along with letter dated 19-05-2017 of the Claim Petitioner.</p> <p>Ex.R8 — 18-09-2017 Photocopy of the reply of the Respondent Management to the Notice of Remarks dated 07-06-2017</p> <p>Ex.R9 — 16-05-2018 Photocopy of the Failure Report of the Labour Officer (Conciliation), Puducherry.</p>	<p>Ex.R10 — 28-05-2010 Photocopy of the Inter Office Memorandum of the Truck Curing Department to the Manager - Truck.</p> <p>Ex.R11 — 08-07-2010 Photocopy of the e-mail of the Chief Security Officer to the officials of the Respondent Management.</p> <p>Ex.R12 — 19-08-2010 Photocopy of the Inter-Office Memorandum.</p> <p>Ex.R13 — 23-08-2010 Photocopy of the letter of the Plant Manager of the Respondent Management to the Judicial Magistrate -I, Puducherry.</p> <p>Ex.R14 — 21-06-2018 Photocopy of the Order of the Under Secretary to the Government of Puducherry.</p>
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V. SOFANA DEVI,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court,
Puducherry.

GOVERNMENT OF PUDUCHERRY

OFFICE OF THE CHIEF EDUCATIONAL OFFICER, KARAIKAL

No. 1714/CEO/KKL/E3(Exam)/2023/774.

Karaikal, dated 19th April 2023.

NOTIFICATION

It is hereby informed that the following candidate has lost her original SSLC Mark Certificate beyond the scope of recovery, the necessary steps have been taken to issue duplicate certificates. If, anyone finds the original Mark Certificate, it may be sent to the Secretary, State Board of School Examinations (Sec.), College Road, Chennai – 600 006 for cancellation, as it is no longer valid.

Sl. No.	Name and address of the applicant	Register No., session and year	Sl. No. of the mark certificate	Permanent registration No.	School in which studied last
(1)	(2)	(3)	(4)	(5)	(6)
1	Ms. Saraswathi. J	1851951, April 2013	2295217	—	Karma Veerar Kamarajar Government High School, Kurumbagaram, Karaikal.

K. RAJASEKARAN,
Chief Educational Officer.