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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 28/AIL/Lab./S/2024,
Puducherry, dated 11th March 2024)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 24/2019, dated 16-06-2022 of the Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. Hindustan Unilever Ltd., Detergent Factory, Vadamangalam, Puducherry and its workman Thiru R. Yayadhy, 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)

S. SANDIRAKUMARAN,
Under Secretary to Government (Labour).

BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY

Present : Tmt. G.T. AMBIKA, M.L., PGDCLCF.,
Presiding Officer.

Wednesday, the 20th day of December, 2023

I.D. (L) No. 16/2016
CNR. No. PYPY06-000020-2016

R. Yayadhy,
S/o. Ramamoorthy,
Main Road, Thanikuppam,
Embalam Post, Puducherry. . . Petitioner

Versus

The Managing Director,
M/s. Hindustan Unilever Limited,
Detergent Factory,
NH-45A, Vadamangalam,
Puducherry. . . Respondent

This Industrial Dispute coming on 06-12-2023 before me for final hearing in the presence of Thiru L. Ramalingam, Counsel for the Petitioner and Thiruvalargal L. Sathish, S. Ulaganathan, T. Pravin, S. Velmurugan, V. Veeraragavan and E. Karthik, Counsels 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 on preliminary issue has been referred by the Government as per the G.O. Rt. No. 87/AIL/Lab./T/2016, dated 01-08-2016 for adjudicating whether the industrial dispute raised by the Petitioner R. Yayadhy against the management of M/s. Hindustan Unilever Ltd, Detergent Factory, Vadamangalam, Puducherry, over his 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. *The averments setforth in the claim statement is as follows:*

The Petitioner was working in the Respondent's Company with utmost sincerity and rendered his dedicated services for the upliftment of the production of the company and also its growth. He was regular in his duties and brought Good Attendance in his works, for which he was awarded meritorious-cum-letter of appreciation on 14-07-2009 for 141.5 days of his attendance out of 149 of the total working days and also, on another occasion, on 18-01-2010, he was also awarded another letter of Appreciation of Attendance for 283.5 days out of 302 of the total working days.

(ii) As days went on, his health condition was getting weaker due to his continuous work in the soap making Unit which caused spreading of detergent chemicals in the air, thereby, the Petitioner sustained drowsiness, weakness, fatigue, breathing trouble, lung infection, nausea, vomiting and headache, cold, fever, tiredness. Bearing all these Health Hazards and danger to the normal physical health, the Petitioner continued to work unhesitatingly for the growth of the Respondent's Company.

(iii) When, his health condition was so deteriorating, he took leave on some occasions and submitted the Medical Certificates, obtained from the ESIC. and also from his private Doctors who treated him instantly in such dangerous situations.

(iv) Since, the Respondent's Company followed the Unfair Trade Practice against the Employees of the Respondent's Company, a Trade Union, namely, Hindustan Unilever Workers Union was organized by the Employees of the Respondent's Company in which, the Petitioner became a member and also worked for the welfare of the Factory Workers as well

as the Growth of the Respondent's Company's production. Since, the Petitioner gained popularity among the employees of the Union and the factory during 2011, the Respondent/Company devised cunningly and brought false charges against this innocent employee by misusing his sick leaves for their unlawful object to wreak - vengeance first time against him with the charges for unauthorized absences for about 285 days for the period 01-01-2012 to 30-04-2013 and conducted a Biased Domestic Enquiry and punished this Petitioner on 03-04-2014 by suspending him for about 25 days without wages. No reasonable opportunities were given to this Petitioner and no reasonable time duration were given to this Petitioner for establishing his defense and innocence. The proceedings were conducted in a hurried manner and his Oral and Documentary Evidences were not appreciated in accordance with Labour Laws. In order to achieve its illegal objects for the suspension of this Petitioner, the Respondent's Company violated the principles of natural justice, equity, ethics and good conscience and passed a non-speaking order of suspension without wages as per clause 40(a) (v) of the Certified Standing Orders and such unlawful suspension without wages thrust upon this innocent Petitioner for 25 days from 07-04-2014 to 01-05-2014.

(v) During 2011, the Respondent's Company had misused its power by transferring this Petitioner to the TSF Division of the factory without any necessity for the sake of the sole reason to put an end to the Petitioner's Labour Union Welfare activities. During the abovesaid domestic enquiry, the Respondent's Company threatened the Petitioner to sign in the Long term Settlement - Agreement under rule 18(1) of the standing order for Terminating him from the job. When, the Petitioner did not accept for such compulsion, coercion and intimidation, the Respondent's Company took another stand of "unauthorized absences" and proceeded against the Petitioner to quell his Trade Union welfare activities.

(vi) As the Petitioner's health condition was often got deteriorated, he took medical treatments not only with the ESIC and also with his private Doctors and found some improvements in his health condition and later on, he was able to discharge his duties effectively and efficiently.

(vii) In order to achieve its illegal goal for the wrongful dismissal of this innocent Petitioner from his sincere service, the Respondent/Company cunningly devised for another charges and issued charge-sheet, dated 02-08-2014 with the allegations of unauthorized absences for about 148 days for the period from 01-05-2013 to 31-01-2014 and conducted

a domestic enquiry under the Enquiry Officer, Smt. Thilagavadhi who commenced and conducted her enquiries on 09-06-2014, 17-06-2014, 21-06-2014, 28-06-2014, 30-06-2014, 04-07-2014 and 08-07-2014 and finally, passed an order under section 39(1), 39(3) and 39(97) of the Certified Standing Order of the company in favour of the Respondent on 06-08-2014. On basis of the findings, the Petitioner was dismissed from service with effect from 10-09-2014 with the long term settlement of wages of ₹ 18,247 by way of a cheque. But, this Petitioner had strongly and stoutly objected the said finding, dated 06-08-2014 and also returned the said cheque with a covering letter, dated 14-11-2014.

(viii) That during the domestic enquiry, no reasonable opportunities were given to the Petitioner for establishing his defence and innocence and one can presume that the bad health condition of the petitioner, supported by the medical certificates would unequivocally establish that his intermittent absences are the causes of the factories detergent fumes and its mixtures in the air, thereby, the Petitioner was under the forceful obligation to maintain his health through ESIC as well as his private Doctors. All the absences were well explained through oral and documentary evidences. The Respondent's Company viewed only to achieve its sole object of terminating the services of this innocent Petitioner by hook and crook methods by adopting unfair trade practices and also by violating the principles of natural justice, equity Respondent's Company has wrongly interpreted the provision of law envisaged under such 39(1), 39(3) and 39(97) of the Certified Standing Orders of the company for its own unlawful benefits and moreover, the human rights are mercilessly violated in rendering this innocent Petitioner jobless without properly balancing the evidences available and good conscience.

(ix) The Respondent/Company has never substantiated its stand that due to the absences/leave of the Petitioner, the Respondent's Company underwent hardships to allot a worker to the particular place of work where, the Petitioner worked, thereby, the Respondent's Company incurred a production. In view of the Respondent's Company's Biased, tyrannical and unethical attitudes towards the Petitioner for his legitimate involvement in the Trade Union welfare activities during, 2011 and also, in view of the hurried disposal of the domestic enquiry and its finding on 06-08-2014 without giving reasonable opportunists to establish his Defenses/Innocences through oral and documentary evidences and also, in view of the unholy Dismissal Order

passed on 10-9-2014 without proper interpretation of the section 39(1), 39(3), 39(97) of the Certified Standing Orders of the Company for the sole benefit of the biased object of the Respondent/Company and also, in view of the ill-health of the Petitioner who suffered due to the spreading and mixing of the detergent - chemical fumes in the air of the factory, thereby, the Petitioner sustained severe health disorders and also, in view of the Respondent/Company's Award of Good Attendance Certificate issued to the Petitioner on two occasions on 14-01-2009 and 18-01-2010 and also, in view of the dependency of the Petitioner's family people upon this sole bread winner's income, (*i.e.*) the Petitioner herein, and also, in view of the scope and object of the welfare legislation of the Labour Act for the beneficial interests to the aggrieved labourers, this Petitioner is legally and morally entitled to resume his job in the Respondent/Company with all benefits. Hence, the petition.

3. *The averments set forth in the counter filed by the Respondent is as follows :*

Respondent is a Multi-National Company operating under the Unilever group, and have factories, units and offices in many parts of the Country. Hindustan Unilever Limited, currently has 3 manufacturing units located in Puducherry two at Vadamangalam Village manufacturing soaps, detergents and personal care products, and the third at Kirumambakkam Village for blending and packing of tea. The Respondent unit of Hindustan Unilever Limited at Vadamangalam is engaged in the business of manufacturing detergent soaps such as Surf Excel, Rin, Rin Bars, Vim Bars, Vim liquid, *etc.*, and toilet soaps such as Lux, Hamam, Rexona, Lifebuoy, *etc.*, which are distributed across the country. The Respondent unit employs about 506 permanent workers, 7 staff, 36 officers and 11 Managers.

(ii) The Petitioner was confirmed as a daily rated workman (W3 grade) from 10-02-1998. Clause 21 of his Letter of Confirmation read as follows;

"If, you remain absent from work without any intimation and permission for a continuous period of 15 working days or more, you shall be deemed to have tendered your resignation and terminated your employment with us, with effect from the day you complete 15 working days of such absence".

(iii) All the terms and conditions of appointment was explained to the Petitioner in Tamil and after understanding the same, he accepted and acknowledged the terms and conditions of service mentioned in his Letter of Confirmation, dated 10-02-1998 and joined the Respondent's factory.

(iv) The respondent has its own Certified Standing Orders as the same is duly displayed in the shop floor and other prominent places in English and Tamil. Clauses 39 (1), 39 (3) and 39 (97) of the said Certified Standing Orders reads as follows:

Clause 39 (1) : "Absence without leave without sufficient cause or absence without permission or habitual absence".

Clause 39 (3) : "Absence without leave for 10 consecutive days or over staying of leave originally sanctioned or subsequently extended by 10 consecutive working days".

Clause 39 (97) : "Habitual or frequent breach of any standing order or any rules or regulations for the time being in force or any law applicable to the factory or any rule made there under".

(v) Availing leave only on permission is the prime and fundamental duty of Petitioner. The petitioner had always been chronic absentee (both authorized and unauthorized) in Respondent's factory. The incidents of his past absenteeism including the one for which, he was ultimately terminated are listed below.

Sl. No.	Dates and events of misconducts of Petitioner	Response by the workmen	Action initiated by Respondent	Punishment if any, given by Respondent
(1)	(2)	(3)	(4)	(5)
1	Remained unauthorisedly absent for 44 days during the period January - December 2010.	—	Advice letter given to Petitioner on 14-03-2011.	Advice letter given to Petitioner on 14-03-2011.
2	Remained unauthorisedly absent for 117 days out of 152 days during the period January - June 2012.	—	Warning letter issued and advised to be regular for work.	Warning letter given to Petitioner on 17-07-2012.

(1)	(2)	(3)	(4)	(5)
3	Remained unauthorisedly absent from 203 days out of 302 days during the period January - December 2012.	—	Advice letter issued and advised to be regular for work.	Advice letter given to Petitioner on 08-04-2013.
4	Unauthorized absence of Petitioner for 285 days from 01-01-2012 to 30-04-2013.	Apology letter dated 10-07-2013 given by petitioner.	Charge-sheet on 14-05-2013, domestic enquiry conducted against the Petitioner.	Suspended for 25 days from 07-04-2014 to 01-05-2014 without wages <i>vide</i> Order, dated 03-04-2014.
5	Unauthorized absence for 148 days from 01-05-2013 to 31-01-2014.	Petitioner denied the charges.	Charge-sheeted, domestic enquiry <i>vide</i> charge-sheet, dated 02-05-2014 was conducted against the petitioner. The charges levelled against Petitioner stood proved.	Petitioner was terminated <i>vide</i> Dismissal Letter, dated 10-09-2014.

(vi) The respondent had shown maximum leniency to Petitioner and on more than one occasion it had condoned the misconduct of chronic absenteeism of petitioner but, the Petitioner took undue advantage of the leniency shown by respondent and did not bother to mend his ways.

(vii) The Petitioner continued to be erratic in his attendance and remained unauthorisedly absent 148 days from 01-05-2013 to 31-01-2014, without any intimation or information to Respondent. When, the petitioner's attendance did not show any improvements in spite of several advisory/warning letters, charge-sheet/s and suspension in the past, the Respondent issued a detailed charge-sheet on 02-05-2014 charging him for unauthorized absence and irregular attendance from 01-05-2013 to 30-01-2014 and for habitual absenteeism in past under clauses 39 (1), 39 (3) and 39 (97) of Certified Standing Orders of Company. The Charge-Sheet, dated 02-05-2014 was sent to petitioner's official residential address, which was received by him. The Petitioner have his explanation letter, dated 06-05-2014. Since, the explanation of Petitioner was not satisfactory, Respondent appointed an independent and impartial Enquiry Officer, which was also duly informed to Petitioner *vide* Enquiry Notice, dated 12-05-2014 was sent to petitioner's official residential address, which was received by him. Thereafter, Petitioner appeared in enquiry proceedings.

(viii) Domestic enquiry was conducted against Petitioner for his unauthorized absence (under charge- sheet, dated 02-05-2014) on 09-06-2014, 17-06-2014, 21-06-2014, 28-06-2014, 30-06-2014,

04-07-2014, 08-07-2014 and 11-07-2014. The Enquiry Officer conducted enquiry in utmost fairness and by adhering to essential Principles of Natural Justice, Equity and Fair Play. The Domestic enquiry was conducted in a free and fair manner, giving full opportunity to Petitioner to defend himself can be gauged from the fact that,

(a) The Enquiry Officer offered permission to Petitioner to engage Defense Assistance of his choice.

(b) Entire enquiry proceedings were conducted in Tamil which is the language known to petitioner.

(c) Enquiry Officer explained the proceeding notes and it was duly signed by Petitioner acknowledging fairness of proceedings.

(d) Petitioner was served with all documents filed and marked by Respondent Management.

(e) Enquiry Officer gave opportunities to Petitioner to produce documents and lead evidence.

(f) Enquiry Officer adjourned the enquiry proceedings on request of Petitioner and Defence Assistant.

(g) Enquiry report was based on appreciation of entire materials placed on record by applying sound principles of law and reasoning.

(h) Enquiry report was given to Petitioner and he was given an opportunity to submit his explanation on enquiry report.

(ix) In the enquiry proceedings, the Petitioner produced certain documents to justify his unauthorized absence. However, the Management representative has pointed out various defects, anomalies and the shortcomings in those documents and they explained in the enquiry proceedings as to how they were concocted and fabricated by the Petitioner for the purposes of the case. The Enquiry Officer has also considered all the evidences placed before her has given a very detailed, reasonable and cogent findings were given by her in her report. The Enquiry Officer submitted her detailed report on 06-08-2014, analyzing the charges leveled against the Petitioner in the light of the available records and submissions made by Petitioner and Respondent during enquiry proceedings. The Enquiry Officer came to the conclusion that Petitioner was guilty of the charges leveled against him under Clauses 39 (1), 39 (3) and 39 (97) of Certified Standing Orders of Company.

(x) The Respondent issued a 2nd showcause notice, dated 27-08-2014 along with enquiry report, dated 06-08-2014 to petitioner, which was directly received by him but, he has not replied to the second show cause. Since, the gravity of misconduct committed by Petitioner was grave and serious, the Respondent terminated Petitioner *vide* its Order, dated 10-09-2014 and gave termination order to Petitioner directly together with salary of one month, which was received and acknowledged by Petitioner on 10-09-2014. The order of dismissal was made taking into consideration all the aspects that were involved in the case including the past misconducts of petitioner. By way of abundant caution, the Respondent filed Approval Petition No. 99/2014 in I.D. (T) No. 10/2012 before Industrial Tribunal, Puducherry under section 33 (2) (b) of Industrial Disputes Act. The said petition was allowed by the Industrial Tribunal on 05-03-2015.

(xi) The Petitioner was removed from the services for grave misconducts of chronic, habitual absenteeism, which was proved by producing documentary evidences in the independent and impartial domestic enquiry. Therefore, the dismissal of Petitioner from service is fully justified and the same cannot be interfered with.

(xii) The Petitioner's accusation of victimization because of his trade union activities is absolutely unfounded and is generalized allegation without any substance. The burden of proof of victimization rests heavily on the Petitioner and such bald accusation without cogent evidence cannot be considered. First of all, petitioner's claim that he is an active trade union member is refuted and the Petitioner is put to

strict proof of the same. Such plea is being taken by the Petitioner for the first time before this Court. Assuming without admitting that he is an active trade union member that by itself does not suggest that Respondent victimized him. The Petitioner is not the lone trade union activist in the factory. There are other union activists, who are also raising various issues on behalf of respective trade unions. But, the Respondent never victimized anybody for their union activities.

(xiii) The Petitioner has pleaded in the claim statement that he suffered from occupational disease therefore, he could not attend his work regularly but, he was compelled to take treatments at ESI Hospital. The Petitioner has not produced any documents before the enquiry proceedings wherein the diseases that are complained of by the Petitioner in his claim statement were not reflected in the ESI records. In the Respondent's factory there are more than 270 workers are employed in Personal Wash Plant and 235 workers are employed in Home Care Plant. No such complaints in the past or accusation of any occupational diseases or health related issues being raised by any of the workers of the Respondent.

(xiv) The Respondent has a state of art factory with latest and most modern machineries. It does not uses any hazardous or life threatening chemicals in its factory and none of its raw materials are classified as hazardous. In any event there is absolutely no possibilities of industrial pollutants getting mixed in air as Respondent adopts strict and stringent pollution control norms. The factory is strictly monitored by Inspector of Factories and the Pollution Control authorities and never has there been even an accusation of occupational disease being reported in Respondent's factory. The Petitioner is trying to play the card of occupational disease and health hazards only to justify his unauthorized absence for long duration and distract the core issue of his unauthorized absence. Therefore, it is clear that the Petitioner is trying to make out some case before this Hon'ble Court to plead mercy as an afterthought.

(xv) The Respondent is a leading FMCG company and is a brand leader in many of the products manufactured by it. It has a very high demand for its products in the market and there is cut-throat competition that exists in its business. Hence, production in large volumes, supply of materials in time and maintaining exceptionally high quality of its products are essential for its sustenance in the business. It therefore, cannot afford any slackness in attendance by workers. One of the biggest challenges

of the Respondent in its factory is habitual absenteeism, whether authorized or unauthorized. Unauthorized absenteeism sends its production plans and strategies topsy-turvy, crippling its production activities and disturbing its work schedules and man power allotments. The high percentage of unauthorized absenteeism in Respondent's factory clearly indicates that its workers were taking their employment casually and the leniency shown by Respondent in the past in not taking stringent disciplinary action was also an encouraging factor. Apart from financial loss, it was also leading to frustration amongst the regular employees as the absenteeism was causing additional burden of work on those employees. In such circumstances, strong disciplinary action was warranted and Since, the misconduct of Petitioner showed no inclination to improve his conduct inspite of previous warnings, the Respondent was forced to impose maximum punishment of dismissal. Hence, prayed to dismiss the claim petition.

4. *The points for consideration are:*

Whether the punishment imposed is proportionate to the charges framed against the Petitioner?

5. *On point:*

On the side of Petitioner and respondent no witnesses were examined but, on consent Exs.P1 to P18 were marked on the Petitioner side and on the side of Respondent Exs.R1 to R23 were marked.

6. *On the Point :*

This Court on perusal of case records finds that the Petitioner has raised the above dispute stating that the Petitioner joined in the Respondent company on 14-01-2008 and was working with utmost dedication and further the petitioner was awarded meritorious-cum-letter of appreciation on 14-07-2009 for his attendance of 141.5 days out of 149 working days and another letter of appreciation of attendance for 283.5 days out of 302 total working days and while so the health of the petitioner got deteriorated as the petitioner suffered drowsiness, weakness, fatigue, breathing problem and fever due to continuous work in the soap making unit where the detergent chemicals got mixed up in the air and thereby the petitioner had to take leave on some occasions and in the meanwhile as the respondent company adopted unfair labour practices the employees of the Respondent company have started a trade union by name Hindustan Unilever Workers Union in which the Petitioner also became the member and worked for the welfare of the workers and therefore, the Respondent company to victimize the Petitioner has

framed charges against the Petitioner for unauthorised absence for about 285 days for the period from 01-01-2012 to 30-04-2013 and conducted a biased domestic enquiry and punished the petitioner on 03-04-2014 by suspending the petitioner for 25 days without wages.

7. The petitioner has further stated that to quell the petitioner's trade union welfare activities the Respondent company has issued another charge sheet on 02-08-2014 with allegations of unauthorised absence for about 148 days for the period from 01-05-2013 to 31-01-2014 and conducted domestic enquiry without giving reasonable opportunities and dismissed the Petitioner from service and therefore, the dismissal order has to be set aside and direct the Respondent company to reinstate the petitioner into service with all back wages, promotions and all other benefits.

8. Whereas, the contention of the Respondent is that the petitioner was confirmed as a daily rated workman and in the letter of confirmation it was stated that If, the petitioner remained absent without any intimation and permission for a continuous period of 15 working days or more than it, then it shall be deemed that the petitioner has tendered resignation and the employment would stand terminated. The further contention of the respondent is that the petitioner had been always a chronic absentee and remained unauthorisedly absent without any intimation or information and therefore, the respondent has issued a detailed charge sheet and conducted domestic enquiry for the unauthorized absence in a fair manner by adhering the essential principles of natural justice and thereafter the Petitioner was removed from service for his chronic and habitual absenteeism.

9. The records further reveals that during the pendency of industrial dispute, the issue of fairness of domestic enquiry was taken up as preliminary issue and this Court after hearing the arguments on both sides has held that the principles of natural justice was properly adhered and therefore, the domestic enquiry held was a fair and valid one. Therefore, as the issue of fairness of domestic enquiry was decided and further having held that the domestic enquiry was fair and proper manner it becomes incumbent to determine whether the punishment of dismissal from service imposed upon the Petitioner is proportionate to the charge leveled against the Petitioner.

10. In this case the respondent is found to have imposed punishment of dismissal from service for the reason that the Petitioner was a chronic and habitual absentee and further the punishment of dismissal was awarded by taking into the previous unauthorised

absenteeism of the Petitioner. The learned counsel for Respondent relied upon the following citations to substantiate his contention that past conduct can be taken into account while imposing the punishments.

CDJ 2009 SC 1194 : In view of the above, it is evident that it is desirable that delinquent employee may be informed by the disciplinary authority that his past conduct would be taken into consideration while imposing the punishment. But, in case of misconduct of grave nature or indiscipline, even in absence of statutory rules, the authority may take into consideration the indisputable past conduct/ service record of the employee for adding the weight to the decision of imposing the punishment. If, the facts of the case so require.

11. The sole contention of the Petitioner is that his health got deteriorated due to continuous working in the soap making unit where the detergent chemicals got mixed up in air but, whereas, the specific contention of the Respondent is that in the documents produced before enquiry proceedings the diseases complained by the Petitioner does not find place in the ESI records and further the Petitioner has raised the plea of occupational disease and health hazards only to justify his unauthorised absence for a long duration and distract the core issue of his unauthorised absence. Thus, the vehement contention of the Respondent is that the petitioner willfully remained himself to be a chronic and habitual absentee and the same amounts to willful misconduct. On perusal of Ex.P15 Enquiry Report it is stated the petitioner without prior permission and information has remained as unauthorised absentee and thereby the petitioner has committed the charges mentioned in charge sheet, dated 02-05-2014.

12. That apart the respondent in the counter statement has furnished the previous unauthorised absence of the Petitioner and the same has not been disputed by the Petitioner but, his only contention is that he was constrained to take leave due to his health condition and the said reason stands to be unproved. This Court finds that in the above citation relied by the Respondent it is held that the indisputable past conduct of the employee can be taken into consideration for imposing punishment. As in Ex.P15 enquiry report it is held that the absence of the Petitioner was willful and the same amounting to willful misconduct, this Court on considering the Ex.P15 enquiry report and also the past conduct of the Petitioner that the petitioner was unauthorisedly absent for a quiet long period intermittently, holds that the petitioner failed to maintain devotion of duty and the petitioner is guilty of chronic absenteeism and therefore, in such context the dismissal of Petitioner

is found to be justified since, there would be no any justifiable reason to maintain a person who has no inclination to work at all in spite of numerous warnings being given to the Petitioner in the earlier occasions. Therefore, this Court finds that the punishment imposed upon the Petitioner is proportionate to the charges leveled against the Petitioner and there is no necessity to interfere in the action taken by the respondent based upon the enquiry report and hence, the industrial dispute raised by the petitioner is not justified and the same deserves to be dismissed.

In the result this petition is dismissed by holding that the industrial dispute raised by the Petitioner as against the Respondent management over non-employment is not justified and thereby the Petitioner is not entitled for any relief as claimed in the claim petition. There is no order as to costs.

Dictated to the Stenographer, directly typed by her, corrected and pronounced by me in open Court on this the 20th day of December, 2023.

G.T. AMBIKA,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witness : Nil

List of petitioner's side exhibits marked on consent :

- Ex.P1 — 11-01-2008 Offer of Traineeship
- Ex.P2 — 14-01-2008 Offer of Traineeship (2 sheets).
- Ex.P3 — 14-07-2009 Letter from Respondent company.
- Ex.P4 — 24-01-2009 Offer of employment on probation (4 sheets).
- Ex.P5 — 14-07-2009 Offer of confirmation (5 Sheets).
- Ex.P6 — 14-07-2009 Respondent company's letter of appreciation for good attendance.
- Ex.P7 — 18-01-2010 Respondent company's letter of appreciation for good attendance.
- Ex.P8 — 15-03-2013 Photocopy of the Medical Certificate for leave.
- Ex.P9 — 01-05-2013 Photocopy of the Medical Certificate for leave.
- Ex.P10 — 18-05-2013 Photocopy of the Medical Certificate for leave.
- Ex.P11 — 05-06-2013 Photocopy of the Medical Certificate for leave.

- Ex.P12 — 03-07-2013 Photocopy of the Medical Certificate for leave.
- Ex.P13 — 24-07-2013 Photocopy of the Medical Certificate for leave.
- Ex.P14 — 14-05-2013 Charge sheet (2 Sheets) with cover.
- Ex.P15 — 06-08-2014 Photocopy of the domestic enquiry report (3 Sheets).
- Ex.P16 — 10-09-2014 Dismissal Order (4 Sheets).
- Ex.P17 — 14-11-2014 True copy of the covering letter of the Petitioner for return the cheque to the Respondent and copy of the cheque.
- Ex.P18 — 14-11-2014 True copy of the petition to Labour Department (2 Sheets).

List of respondent's witness : NIL

List of respondent's side exhibits marked on consent:

- Ex.R1 — 02-05-2014 Photocopy of the charge sheet issued to the Petitioner and its tamil translation.
- Ex.R2 — 06-05-2014 Photocopy of the reply given by the Petitioner to the Respondent.
- Ex.R3 — 02-05-2014 Photocopy of the notice of enquiry issued by the Respondent's Management to Petitioner.
- Ex.R4 — — Photocopy of the entire domestic enquiry proceedings.
- Ex.R5 — 27-08-2014 Photocopy of the second show cause notice along with enquiry report, dated 06-08-2014 sent by the Respondent to the Petitioner.
- Ex.R6 — 10-09-2014 Photocopy of the dismissal letter of the Petitioner issued by the Respondent to the Petitioner.
- Ex.R7 — 05-03-2015 Photocopy of the order passed in the approval petition in I.A. No. 99/2014 in I.D. (T) 10/2012.
- Ex.R8 — 02-05-2014 Photocopy of the charge sheet issued to the Petitioner and its postal slip.

- Ex.R9 — 12-05-2014 Photocopy of the notice of enquiry issued by the Respondent's Management to the Petitioner.
- Ex.R10 — — Photocopy of the muster report from the period of 1st May to 31st May.
- Ex.R11 — 03-04-2014 Photocopy of the punishment order issued by the Respondent to the Petitioner and its AD Card.
- Ex.R12 — 06-05-2014 Photocopy of the reply given by the Petitioner to the charge sheet, dated 02-05-2014.
- Ex.R13 — 15-03-2013 Photocopy of the Medical Certificate of the Petitioner.
- Ex.R14 — 15-05-2013 Photocopy of the Medical Certificate of the Petitioner.
- Ex.R15 — 01-05-2013 Photocopy of the Leave Certificate.
- Ex.R16 — — Photocopy of the Medical Certificate of the Petitioner.
- Ex.R17 — — Photocopy of the Leave Certificate.
- Ex.R18 — — Photocopy of the muster roll of the petitioner.
- Ex.R19 — 14-05-2013 Photocopy of the charge sheet issued to the Petitioner, its tamil translation and its AD Card.
- Ex.R20 — — Photocopy of the reply letter given by the Petitioner to the charge sheet, dated 14-05-2013.
- Ex.R21 — 09-07-2013 Photocopy of the notice of enquiry issued by the Respondent's Management to the Petitioner and its AD Card.
- Ex.R22 — — Photocopy of the entire domestic enquiry proceedings.
- Ex.R23 — — Photocopy of the enquiry report, dated 24-03-2014 sent by the Respondent to the Petitioner.

G.T. AMBIKA,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.