



Registered with the Registrar
of Newspapers for India
under No. 10410

புதுச்சேரி மாநில அரசிதழ்

La Gazette de L'État de Poudouchéry The Gazette of Puducherry

அதிகாரம் பெற்ற வெளியீடு

Publiée par Autorité

Published by Authority

எண்	} 6	புதுச்சேரி	செவ்வாய்க்கிழமை	2024	ஓ	஫்ரவரீ மீ	6
No.		Poudouchéry	Mardi	6		Février	2024 (17 Magha 1945)
No.		Puducherry	Tuesday	6th		February	2024

பொருளடக்கம்

SOMMAIRES

CONTENTS

	பக்கம்		Page		Page
தொழில் நீதிமன்றத் தீர்ப்புகள்..	112	Sentence arbitral du Travail de Tribunal.	.. 112	Award of the Labour Court..	112
அரசு ஆணைகள்/ அறிவிக்கைகள்	.. 121	l' Orders/Notifications du Gouvernement	.. 121	Government Orders/ Notifications	.. 121
ஓப்ப அறிவிப்புகள்	.. 124	Avis d' appel d' offres	.. 124	Tender Notices	.. 124
ஆபத்தான நிறுவனங்கள்	.. 126	Etablissements dangereux	.. 126	Dangerous Establishments	.. 126
சாற்றறிக்கைகள்	.. 128	Annonces	.. 128	Announcements	.. 128

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 118/AIL/Lab./T/2023,
Puducherry, dated 8th December 2023)

NOTIFICATION

Whereas, an Award in I.D (T) No. 55/2023, dated 29-09-2023 of the Labour Court, Puducherry, in respect of dispute between M/s. Texbond Non-Wovens, PIPDIC Electronic Park, Thirubuvanai, Puducherry and Thiru Rajiv Gandhi, Kalitheerthalkuppam, Puducherry, over his non-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. G.T. AMBIKA, M.L., PGDCLCF.,
Presiding Officer.

Friday, the 29th day of September, 2023.

**I.D. (T). No. 55/2017
CNR. No. PYPY06-000091-2017**

Rajiv Gandhi,
S/o. Vengadachalam,
Jeevi Malar Nilayam,
Opposite to Perunthalaiavar
Kamarajar Arts College,
Kalitheerthalkuppam,
Madagadipet Post,
Puducherry.

. . . Petitioner

Versus

The Management,
Texbond Non-Wovens,
No. 28-30, PIPDIC Electronic Park,
Thirubuvanai, Puducherry.

. . . Respondent

This Industrial dispute coming on 04-09-2023 before me for final hearing in the presence of Thiru Parthasarathy, Counsel for the petitioner, Thiru A. Latchoumicandane, Counsel for the respondent and after hearing the both sides and perusing the case records, this Court delivered the following:

AWARD

This petition is filed by the petitioner under section 10 (A) (2) of the Industrial Standing Orders Act, 1947 to direct the respondent to pay subsistence allowance for the month of December 2014 to May 2018.

2. *The averments set out in the claim petition is as follows:*

The petitioner is working in the respondent company as a permanent employee for the past 9 years with unblemished records and in the respondent company there are 30 permanent employees and 60 contract labours and further the petitioner was attached to a Union by name Texbond Ovens Employees Union and the said Union took efforts to restore the rights and benefits of employees and due to same the management foisted false charges against the office bearers and the active members of the said Union and also transferred the office bearers in a vindictive manner. That in the said circumstances the respondent foisted false charges against the petitioner and temporarily suspended the petitioner as per order, dated 20-08-2014 and paid subsistence allowance for the period from September 2014 to November 2014 and thereafter has failed to pay subsistence allowance to the petitioner and therefore the petitioner gave a representation to the Deputy Labour Commissioner and also filed W.P. No. 36893/2015 before the Hon'ble Madras High Court and in the said Writ Petition the Hon'ble Madras High Court was pleased to direct the Deputy Labour Commissioner to take action on the representation but, again the respondent management without any valid reason has failed to pay subsistence allowance to the petitioner and therefore, this reference has been made to this Court.

3. *The averments set out in the counter is as follows:*

The claim petition filed by the Petitioner for an order to direct the respondent to pay the subsistence allowance from December 2014 as alleged in the petition is maintainable neither in law nor on facts.

(ii) The respondent denies that the petitioner has worked for 9 years without committing any offence. There is no any recognised Union by the respondent and there is no strength of members in the Union as per the law. The respondent denies that there was discrimination among the workers in wages and transferred workers from one Unit to another.

(iii) The petitioner went out of the working premises without any information and without entering in the time register and the respondent

issued charge notice but the reply of the petitioner was not satisfactory and hence, a Domestic Enquiry was conducted and even though Domestic Enquiry was conducted in parallel, the petitioner worked and the respondent did not take any action of suspension considering his future life.

(iv) The petitioner has involved in a serious criminal offence under sections 147, 148, 307, 323, 324 IPC r/w 149 IPC in Cr.No. 90/2014, dated 05-08-2014 of Thirubuvanai Police Station, Puducherry and in which the petitioner is a name accused and further the petitioner was arrested and remanded to judicial custody and he was in central prison, Puducherry and he was absent from work from 06-08-2014 and then on 13-08-2014, his mother sent a letter to the respondent requesting leave for his son (the petitioner herein) from 06-08-2014 to 14-08-2014 for the reason that he is unable to attend duty and when the respondent enquired it came to know that the petitioner is in jail and his mother is giving false information to the management and hence, the respondent sent a Suspension Order on 20-08-2014 under Clause 20 (67) of the Standing Order for "Commission of offence punishable under the Penal Code. That the respondent's mother again sent a letter on 22-08-2014 requesting for leave for his son from 24-08-2014 to 31-08-2014 and the respondent on 01-9-2014 issued a notice of additional charge for his suspension under Clause 11 of Standing Order "Unauthorized absence for more than 8 days" and on 11-09-2014, the petitioner after he was enlarged on Court bail sent a letter stating that the letter, dated 01-09-2014 is not understandable as he did not know English and the respondent sent a translated copy to the petitioner on 12-09-2014 and ordered for Domestic Enquiry. That after full enquiry, the Domestic Enquiry Officer filed his report stating that the Charges against the petitioner is proved undoubtedly and hence recommend to take action against him. That from the month of suspension until November 2014 the suspension allowance was paid to the petitioner and later as the charges against the petitioner was proved the respondent was constrained to stop the suspension allowance given to the Petitioner.

(v) On 28-01-2015 the petitioner given a letter to the Labour Officer for his suspension allowance and after receiving notice, the respondent appeared before the Labour Officer and gave reply. The petitioner filed a Writ Petition before the Hon'ble High Court, Madras and the respondent appeared and submitted their reply and based upon the reply,

the Hon'ble High Court disposed the matter by giving direction to the Labour Officer and the respondent gave reply and based upon the reply the Labour Officer referred the matter to this Court.

(vi) The petitioner is entitled for the suspension allowance till the completion of the Domestic Enquiry and once the Domestic Enquiry completes and the charges against him was proved, the respondent is not entitled to give suspension allowance. Hence prayed for dismissal of the claim petition.

4. *Points for determination:*

Whether the Petitioner is entitled for subsistence allowance during the entire period of suspension that is upto passing of final order of termination on 8-5-2018?

5. The petitioner was examined as PW1 and Ex.P1 to P23 were marked. On Respondent side Mr. Raja Balaji, the Assistant Manager of respondent Company was examined as RW1 and through him Ex.R1 to R23 were marked.

6. *On point:*

The contention of the petitioner is that he was working in the respondent company as a permanent employee for the past 9 years with unblemished records and in the respondent company there are 30 permanent employees and 60 contract labours and further the petitioner was attached to a Union by name Texbond Ovens Employees Union and the said Union took efforts to restore the rights and benefits of employees and due to same the management foisted false charges against the office bearers and the active members of the said Union and also transferred the office bearers in a vindictive manner. That in the said circumstances the respondent foisted false charges against the petitioner and temporarily suspended the petitioner as per order, dated 20-08-2014 and paid subsistence allowance for the period from September 2014 to November 2014 and thereafter has failed to pay subsistence allowance to the petitioner and therefore, the petitioner gave a representation to the Deputy Labour Commissioner and also filed W.P.No. 36893/2015 before the Hon'ble Madras High Court and in the said Writ Petition the Hon'ble Madras High Court was pleased to direct the Deputy Labour Commissioner to take action on the representation, but, again the respondent management without any reason has failed to pay subsistence allowance and therefore, this reference has been made to this Court.

7. The contention of the respondent is that the petitioner got involved in a serious criminal offence under sections 147, 148, 307, 323, 324 IPC r/w 149 IPC in Cr.No. 90/2014 on the file of Thirubuvanai Police Station, Puducherry and was arrested and remanded to judicial custody and thereby, the petitioner had absented himself from attending the work from 06-08-2014 and later the mother of the petitioner suppressing the criminal offence had sent a leave letter but however, the respondent came to know about the involvement of the petitioner in the criminal offence and hence, the respondent had suspended the petitioner from his service as per suspension order, dated 20-08-2014 and later had subsistence allowance for the period from September 2014 to November 2014 and subsequently as the Domestic Enquiry was completed and the charge against the petitioner stood proved, the petitioner was not paid subsistence allowance thereafter onwards.

8. In this case the only point for determination is whether the petitioner is entitled for subsistence allowance for the whole period of suspension as contended by the petitioner or only till the completion of Departmental Enquiry as contended by the respondent. The contention of the petitioner is that for the whole suspension period the petitioner is entitled for subsistence allowance but, whereas, the respondent has paid subsistence allowance at the rate of 50% wages for the period from September 2014 to November 2014 and thereafter, has stopped paying the subsistence allowance till the termination of petitioner from service. Whereas, the respondent admits that the subsistence allowance was paid to the petitioner from September 2014 to November 2014 and contends that thereafter as the departmental enquiry was completed and further as per Enquiry Report, dated 14-10-2014, the charge as against the petitioner stood proved the respondent had stopped from paying the subsistence allowance to the petitioner from December 2014 onwards and further it is the specific contention of the respondent that the subsistence allowance has to be paid only till the completion of Domestic Enquiry.

9. Thus, it is admitted by both the parties that the petitioner was suspended from service on 20-08-2014 and dismissed from service on 08-05-2018 and further the subsistence allowance was paid to the petitioner for the period from September 2014 to November 2014 and further it is an admitted fact that from December 2014 to 07-05-2018 the petitioner was not paid subsistence allowance. In this case it is pertinent to mention that the mode for computation of subsistence allowance by the respondent company is stipulated in the respondent's Standing Order which is marked as Ex.R23. On perusal of Ex.R23 it is stated in Clause 22 (b) of the Standing Order as follows:

22 b : A workmen, who is placed under suspension under clause (a) shall be during the period of such suspension allowance in accordance with the provisions of 10A of the Industrial Employment Standing Orders Act, 1946.

10. Therefore, as per clause 22(b) of the Company's Standing Order it is stated that the subsistence allowance to the workmen placed under suspension shall be paid in accordance with the provisions of 10A of the Industrial Employment Standing Orders Act, 1946. Thus, the procedure, payment and computation of subsistence allowance is found to be as per the provisions specified in section 10A of the Industrial Employment Standing Orders Act, 1946. Section 10A of Industrial Employment Standing Orders Act, 1946 is extracted hereunder for better appreciation:

“10A. Payment of subsistence allowance : (1) Where, any workman is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance -”

(a) at the rate of fifty percent of the wages which the workman was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and

(b) at the rate of seventy-five percent of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

(2) If, any dispute arises regarding the subsistence allowance payable to a workman under sub-section (1) the workman or the employer concerned may refer the dispute to the Labour Court, constituted under the Industrial Disputes Act, 1947 (14 of 1947), within the local limits of whose jurisdiction the industrial establishment wherein, such workman is employed is situate and the Labour Court to which the dispute is so referred shall, after giving the parties an opportunity of being heard, decide the dispute and such decision shall be final and binding on the parties”.

11. Thus, from the provisions of section 10 A of Industrial Employment Standing Orders Act, 1946, it is clear that during the period of suspension, the subsistence allowance payable to the suspended employee is liable to be calculated at the rate of fifty percent of the wages which the workman was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension. Thereafter, the rate of subsistence allowance is enhanced to

seventy-five percent of such wages for the remaining period of suspension. Clause (2) of the said Standing Order provides a remedy in the event of a dispute arising regarding the subsistence allowance payable then either the workman or the employer may refer the dispute to the Labour Court.

12. Hence, in view of section 10 A of Industrial Employment Standing Orders Act, 1946, the respondent herein has to pay 50% of wages to the petitioner for first ninety days and 75% of wages for the remaining period of suspension. In this case it is found that after the petitioner was suspended from service the respondent has paid subsistence allowance at the rate of 50% of wages received by the petitioner preceding to his suspension for the period from September 2014 to November 2014 and thereafter has stopped from paying subsistence allowance and the reason stated by the respondent is that the enquiry was completed and Enquiry Report emerged on 14-10-2014.

13. No doubt, section 10 A of Industrial Employment Standing Orders Act, 1946 stipulates that the subsistence allowance has to be paid to the suspended workmen pending enquiry. Therefore, it has to be determined whether the term pending inquiry would mean till the completion of inquiry alone or for the entire period of suspension till passing of further orders based on Enquiry Report. In this case though the Enquiry Report emerged on 14-10-2014, but, however, the termination order based on Enquiry Report was passed on 08-05-2018 and further, it is found that till the passing of termination order on 08-05-2018, the petitioner continued to be in suspension and further, when the petitioner continued to be in suspension the subsistence allowance was denied to the petitioner by the respondent.

14. This Court at this juncture relies upon the following citations relied by the petitioner:

(i) CDJ 2013 MHC 2606

Hon'ble High Court of Judicature at Madras

Held-Petitioner was placed under suspension-bounden duty of the petitioner management to pay the subsistence allowance till passing of the final order of termination-petitioner management financially prevented the employee from participating in the enquiry for the reason of non-payment of subsistence allowance-No justifiable ground was made out for non-payment of the subsistence allowance-clear case of breach of principles of natural justice, Writ Petition is dismissed.

(ii) Indian Kanoon-<http://indiankanoon.org/doc/1539251/>

In the High Court of Judicature at Madras

The Management,
Tube Products of India Limited,
Avadi, Chennai - 600 054.

. . Petitioner

Vs.

1. The Presiding Officer,
I Additional Labour Court,
Madras.

2. K. Sathish . . Respondents

This Court is unable to agree with the said submission. If, an employer has the power to suspend an employee, it is automatic that the employee must be paid subsistence allowance on the rate prescribed, failing which the workman is entitled for full wages. It is because it is the employer who had prohibited the employee from reporting to work. The Standing Order produced by the management though, states suspension as a substantive punishment and there is no provision for suspension pending enquiry, then all the more reason, the management will have to pay full wages to the workman. The word 'Suspension' found in the Standing Order is susceptible to mean both suspension as a penalty and also suspension pending enquiry.

(iii) CDJ 2005 MHC 203

Likewise, payment of subsistence allowance is the legal right granted under law for a delinquent officer who is facing enquiry in any enquiry proceeding since it is the only means of livelihood for the delinquent officer to survive during the pendency of the enquiry and therefore, it is not out of place to mention that non-payment of the subsistence allowance besides being inhuman and incongruous goes against the principles of the Subsistence Allowance Payment Act and this would also attribute motives to the disciplinary authority regarding the very disciplinary proceeding initiated against him and since on part of the petitioner Bank they are not able to place such materials before this Court to the effect that sufficient and reasonable opportunities were afforded for the second respondent to exhaust his remedies particularly in the matter of putting up a valid defence such as seeking the assistance of an expert, perusal of the documents *etc.*, and since such opportunities have not been afforded to the second respondent, needless to mention that it is a case of denial of such opportunities in violation

of the principles of natural justice and in denying to pay the subsistence allowance, the basis rights of the petitioner enshrined under law have been denied and at this score also, the enquiry proceeding initiated by the disciplinary authority, the petitioner Bank herein, becomes tainted and therefore, the conclusions arrived at by the Appellate Authority in setting aside the decision of the disciplinary authority resorting to dismissal of the second respondent from service has been legally and in the circumstances of the case, rightly done and therefore, this Court does not find it necessary to cause its interference.

(iv) <http://www.mhc.tn.gov.in/judis/>

M/s. Sivam Apparels
Rep. By its Proprietor

Mr. Ajay Kumar Singh . . . Petitioner in both petitions
Vs.

Y. Priya . . . Petitioner in both petitions

At the same time, it should not be lost sight of the fact that no purpose would be served in keeping these Writ Petitions pending for years together, by dragging on the proceedings consecutively. In that process, the Management/ employer cannot be allowed to go scot-free and make the Employee suffer endless and unless an opportunity is given and the Employee subsists.

(v) 2001-III-LLJ (Suppl)

Hon'ble High Court of Madras held that

Interim Relief-Grant of-*Prima facie* case for grant of interim relief made out by dismissed employee-Question of payment of subsistence allowance, it being payable pending suspension and during subsistence of employer-employee relationship, did not arise in present case- Much less could application under Tamil Nadu Payment of Subsistence Allowance Act, 1981, be maintained by employee in this case who had been dismissed-Labour Court order declining interim relief quashed.

(vi) CDJ 2007 MHC 3392

Hon'ble High Court of Madras held that "The contention raised by the appellant Management that since the Writ Petitioner had worked in some other organisation, he is not entitled for subsistence allowance cannot be accepted and it is liable to be rejected. Accordingly, the same is rejected.

(vii) CDJ 1999 SC 210

"Exercise of right to suspend an employee may be justified on facts of a particular case. Instances, however, are not rare where officers have been found to be afflicted by "suspension syndrome" and the employee have been found to be placed under suspension just for nothing. It is their irritability rather than the employee's trivial lapse which has often resulted in suspension. Suspension notwithstanding, non-payment of Subsistence Allowance is an inhuman act which has an unpropitious effect on the life of an employee. When the employee is placed under suspension, he is demobilised and the salary is also paid to him at a reduced rate under the nick name of "Subsistence Allowance", so that the employee may sustain himself. This Court in O.P. Gupta v. Union of India and others, 1987(4) SCC 328 made the following observations with regard to Subsistence Allowance:

"An order of suspension of a Government servant does not put an end to his service under the Government. He continues to be a member of the service in spite of the order of suspension. The real effect of suspension as explained by this Court in Khem Chand vs. Union of India is that he continues to be a member of the Government service but is not permitted to work and further, during the period of suspension he is paid only some allowance-generally called subsistence allowance-which is normally less than the salary instead of the pay and allowances he would have been entitled to if, he had not been suspended. There is no doubt that an order of suspension, unless the departmental inquiry is concluded within a reasonable tie, affects a Government servant injuriously. The very expression 'subsistence allowance' has an undeniable penal significance. The dictionary meaning of the word 'Subsit' as given in Shorter Oxford English Dictionary, Vol. II at p.2171 is "to remain alive as on food: to continue to exist". "Subsistence" means-means of supporting life, especially a minimum livelihood". (Emphasis supplied)

If, therefore, even that amount is not paid, then the very object of paying the reduced salary to the employee during the period of suspension would be frustrated. The act of non-payment of Subsistence Allowance can be likened to slow-poisoning as the employee, if, not permitted to sustain himself on accoun of non-payment of Subsistence Allowance, would gradually starve himself to death.

15. Thus the Hon'ble Apex Court in the above citations has categorically held that the subsistence allowance is paid to a suspended workmen for his survival since, it is the employer who has denied the work during the suspension period and further denial of subsistence allowance would amount to denial of basic rights to the workmen and also slow poisoning the workmen so as to make him to die out of starvation. Thus, in the light of above citations it is very clear that the payment of subsistence allowance to a workmen is a basic right of workmen and the same is paid to enable the workmen to sustain himself during the suspension period. Therefore, without any doubt it can be held that the subsistence allowance has to be paid for entire suspension period more particularly till the passing of final orders upon the charge of misconduct alleged against the workmen. Hence, in the said circumstances, the contention of the respondent that the respondent is liable to pay subsistence allowance only till the completion of enquiry and thereafter, can continue to place the workmen under suspension without paying subsistence allowance and can pass final orders after years together at the desire of respondent company is found to be untenable and unacceptable one. At the same time, it has be remind that if, the delay in completion of enquiry is occasioned due to the conduct of workmen then the management is not liable to pay subsistence allowance.

16. In this case the RW1 during his cross-examination has deposed as follows:

மார்ச் 2015 மனுதாரர் மீது சுமத்தப்பட்டிருள்ள குற்றச்சாட்டின் உள்விசாரணை முடிந்து, உள்விசாரணை அறிக்கை தாக்கல் செய்யப்பட்டது. அதற்கு அடுத்த 3 வருடம் கழித்துதான் மனுதாரரை பணி நீக்கம் செய்யப்பட்டது என்றால் ஆமாம். மேற்படி 3 வருட காலதாமதத்திற்கான காரணம் எனக்கு தெரியாது.

இரண்டு மாதத்திற்கு பிறகு Subsistence Allowance நிறுத்தப்பட்டது. அதற்கு காரணம் Domestic Enquiry-ல் மனுதாரர் மீது குற்றம் நிரூபிக்கப்பட்டதாக அறிக்கை தாக்கல் செய்யப்பட்டதால் Subsistence Allowance நிறுத்திவிட்டோம். இதை தவிர வேறு எந்த காரணமும் இல்லை என்றால் ஆமாம்.

17. Thus, the R.W.1 in his evidence has deposed that the final order of termination was passed after 3 years of completion of enquiry and further categorically deposed that he does not know the reason for the delay and further deposed that subsistence allowance was not paid from December 2014 onwards since the enquiry got completed and in the Enquiry Report, the charge as against the petitioner stood proved. Thus, from the evidence of R.W.1 it is found that delay in completion of enquiry or passing final

orders has not occurred due to the conduct of the petitioner. When such being so, this Court finds that the petitioner is entitled for subsistence allowance for the disputed period that is from December 2014 to 07-05-2018 that is till the date of passing of final order of termination on 08-05-2018. Further, as per section 10 A of of Industrial Employment Standing Orders Act, 1946, since, the period from December 2014 onwards is a period whereby 90 days of suspension period has elapsed, this Court holds that from December 2014 to 07-05-2018 the petitioner is entitled to receive subsistence allowance at the rate of 75% of wages that was received by him preceding to the suspension.

18. In view of above discussions, it is held that Industrial dispute raised by the petitioner as against the respondent management over his non-payment of subsistence allowance is justified and as such this Court holds that the petitioner is entitled for subsistence allowance as claimed by him for the period from December 2014 to 07-05-2018. Thus, the points are answered accordingly.

In the result, this petition is allowed by holding that the industrial dispute raised by the petitioner as against the respondent management over his non-payment of subsistence allowance is justified and the respondent management is directed to pay subsistence allowance for the period from December 2014 to 07-05-2018 within two months from the date of this Award. There is no order as to costs.

Dictated to the Stenographer, directly typed by him, corrected and pronounced by me in the open Court on this the 29th day of September, 2023.

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

List of petitioner's witness:

PW.1 — 03-09-2019 Thiru Rajiv Gandhi

List of petitioner's exhibits:

Ex.P1 — 12-09-2014 Photocopy of explanation letter.

Ex.P2 — 03-10-2014 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.

Ex.P3 — 10-10-2014 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.

- Ex.P4 — 14-10-2014 Photocopy of the charge sheet issued by the Respondent.
- Ex.P5 — 27-10-2014 Photocopy of the letter given by the Petitioner to the Labour Commissioner for subsistence allowance.
- Ex.P6 — 14-11-2014 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.
- Ex.P7 — 21-11-2014
- Ex.P8 — 12-12-2014 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.
- Ex.P9 — 15-12-2014 Photocopy of the reply letter given by the Respondent to the Labour Commissioner.
- Ex.P10 — 31-12-2014 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.
- Ex.P11 — 28-01-2015 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.
- Ex.P12 — 02-02-2015 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.
- Ex.P13 — 16-03-2015 Photocopy of the reply letter given by the Respondent to the Deputy Labour Commissioner.
- Ex.P14 — 20-05-2015 Photocopy of the order of the Deputy Labour Commissioner.
- Ex.P15 — 02-06-2015 Photocopy of the reply letter given by the Respondent to the Deputy Labour Commissioner.
- Ex.P16 — 03-06-2015 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.

- Ex.P17 — 15-12-2015 Photocopy of the Order passed by the Hon'ble High Court, Madras in W.P.No. 36983/2015.
- Ex.P18 — 03-02-2016 Photocopy of the letter given by the Petitioner to the Deputy Labour Commissioner for subsistence allowance.
- Ex.P19 — 14-03-2016 Photocopy of the Advocate Notice sent by the Petitioner to the Deputy Labour Commissioner.
- Ex.P20 — 12-04-2016 Photocopy of the reply given by the Respondent to the Deputy Labour Commissioner.
- Ex.P21 — 13-07-2016 Photocopy of the reply given by the Petitioner to the Deputy Labour Commissioner.
- Ex.P22 — 29-07-2016 Photocopy of the letter given by the Petitioner to the Deputy Labour Commissioner for Subsistence allowance.
- Ex.P23 — 13-05-2017 Photocopy of the letter given by the Petitioner to the Respondent for subsistence allowance.

List of Respondent's witness:

- RW1 — 25-02-2020 Thiru Raja Balaji, Assistant Manager of the Respondent Management.

List of Respondent's exhibits:

- Ex.R1 — 24-01-2020 Authorization letter.
- Ex.R2 — 14-10-2014 Photocopy of the Enquiry Committee Report.
- Ex.R3 — 06-03-2015 Photocopy of the Charge Notice.
- Ex.R4 — 13-08-2014 Photocopy of the letter from Rajiv Gandhi's mother about informing his leave.
- Ex.R5 — 15-08-2014 Photocopy of the letter from Rajiv Gandhi's mother about informing his leave.

Ex.R6 — 22-08-2014 Photocopy of the letter from Rajiv Gandhi's mother about informing his leave.

Ex.R7 — 28-08-2014 Copy of the Bail order granted to Rajiv Gandhi for FIR No. 90/2014.

Ex.R8 — 30-08-2014 Photocopy of the request letter from Rajiv Gandhi for requesting permission to join duty.

Ex.R9 — 01-09-2014 Photocopy of the request letter from Rajiv Gandhi for requesting permission to join duty.

Ex.R10 — 01-09-2014 Photocopy of the letter from Management asking explanation for unauthorized absence.

Ex.R11 — 03-09-2014 Photocopy of the request letter from Rajiv Gandhi for requesting permission to join duty.

Ex.R12 — 06-09-2014 Photocopy of the request letter from Rajiv Gandhi for requesting permission to join duty.

Ex.R13 — 08-09-2014 Photocopy of the request letter from Rajiv Gandhi for requesting permission to join duty.

Ex.R14 — 10-09-2014 Photocopy of the letter to Labour Officer (Conciliation), Puducherry.

Ex.R15 — 11-09-2014 Photocopy of the letter for asking Management to sent letter of 01-09-2014 in Tamil.

Ex.R16 — 12-09-2014 Photocopy of the letter of translation of letter, dated 01-09-2014.

Ex.R17 — 20-09-2014 Photocopy of the letter asking time for giving explanation for Management letter, dated 01-09-2014.

Ex.R18 — 03-10-2014 Photocopy of the letter for giving explanation for Management letter, dated 01-09-2014.

Ex.R19 — 14-10-2014 Photocopy of the charge notice for informing about Domestic Enquiry.

Ex.R20 — 09-09-2014 Photocopy of the order in C.M.P. No. 02/2014 of the Hon'ble High Court of Madras.

Ex.R21 — 20-08-2014 Photocopy of the suspension order issued by the Respondent Management.

Ex.R22 — 05-08-2014 Photocopy of the FIR registered against Rajiv Gandhi in Cr.No. 90/2014 of Thirubuvanai Police Station, Puducherry.

Ex.R23 — — Photocopy of the Standing Order.

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

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

*(G.O. Rt. No. 119/AIL/Lab./T/2023,
Puducherry, dated 8th December 2023)*

NOTIFICATION

Whereas, an Award in I.D. (L) No. 20/2020, dated 06-07-2023 of the Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. The Pondicherry Co-operative Milk Producers' Union Ltd., No. P1, Kurumampet, Puducherry and NRTUC, Thilaspeth, Puducherry, over promotion to the post of Operator of Thiru J. Murugan, Dairy Helper Grade-I 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. G.T. AMBIKA, M.L., PGDCLCF.,
Presiding Officer.

Thursday, the 6th day of July, 2023

**I.D. (L) No. 20/2020
CNR. No. PYPY06-000053-2020**

Thiru J. Murugan,
Dairy Helper, Grade-I,
The Pondicherry Co-operative Milk Producers' Union
Limited, Vazhudavoor Road,
Kurumampet, Puducherry . . . Petitioner

Versus

1. The Managing Director,
M/s. The Pondicherry Co-operative Milk Producers'
Union Limited,
Vazhudavoor Road,
Kurumampet,
Puducherry.
2. S. Rasu
3. R. Janarthanan
4. J. Baskaran
5. A. Subarayulu
6. A. Vishnu
7. R. Vinothkumar
8. S. Saranraj
9. M. Arunkumar
10. B. Chandru . . . Respondents

This Industrial Dispute coming on 06-07-2023 before me for hearing in the presence of Thiruvalargal M. Veerappan and V.R. Aroumougam, Counsels for the Petitioner, Thiruvalargal L. Swaminathan and I. Ilankumar, Counsels for the Respondents, and the Respondent remained *ex parte*, upon hearing the Petitioner sides, after perusing the case records, after having stood over till this day, this Court delivered the following:

AWARD

This Industrial Dispute arises out of the reference made by the Government of Puducherry, *vide* G.O. Rt. No. 104/AIL/Lab./T/2020, dated 13-10-2020 of the Labour Department, Puducherry to resolve the following dispute between the Petitioner and the Respondents, *viz.*,

(a) Whether the dispute raised by the Petitioner Union NRTUC, Thilaspeth, Puducherry, against the Management of M/s. The Pondicherry Co-operative Milk Producers' Union Limited, No. P1, Kurumampet, Puducherry over promotion to the post of Operator for Thiru J. Murugan, Dairy Helper Grade-I is justified or not? If justified, what relief the Union workmen are entitled to?

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

2. *Brief facts of the case of the Petitioner averred in the claim petition:*

The Petitioner was appointed as casual worker on 28-02-2005 and from the inception of joining the Respondent Management, he was working as plant operator and he possessed requisite qualifications and experience to hold the post of operator in the Respondent Management. The Petitioner was appointed on regular basis as Dairy helper in the year 2011. Since, he possessed requisite qualifications and experience to hold the post of operator in the Respondent Management, he raised objection for being appointed as dairy helper and made representations to the Respondent Management to appoint him as operator instead of appointing him as dairy helper.

(ii) As per the office circular issued by the Respondent the seniority of the employee was fixed with the name of the employees and the said document was also filed along with the claim statement and it is found the Petitioner is the senior than other employees namely the respondents as stated above.

(iii) Again in the year 2016, instead of giving opportunity to him and consider him for the post of operator the Respondent Management promoted and appointed some of his juniors working as dairy helper below him as operators but at the same time again he was promoted and posted as dairy helper Grade-I which is below the rank of operator post and also attract lesser pay scale and therefore, he immediately made representations to the Respondent Management about his promotion at the lower cadre, but, no action was taken nor justified reason was explained by the Respondent Management about the denial of proper post to him.

(iv) As on date of promotion to him as dairy helper in the year 2016, there was at least 11 post of operator vacant due to the reason that 11 employees who were working as operators were promoted to the post of operator Grade-I and out of the said vacancies he is entitled to get the post of operator.

(v) It is clear that the Respondent Management adopted unfair labour practice as he is the senior employee in the cadre of dairy helper but the Respondent Management promoted the Respondents Nos. 2 to 9 as per the name cited above as operators and it is clear that the Respondent Management has indeed violated the seniority of the employees for considering for promotion to the highest post.

(vi) The Petitioner has made several representations on 08-06-2012, 05-07-2012, 24-09-2012, 24-07-2014, 18-05-2015, 02-03-2026 and on 14-12-2016 to the Respondent Management to consider his case for promoting to the post of operator as his many juniors were already promoted to the post of operator by giving preference to them without following seniority and choosing the juniors overlooking his seniority clearly attracted the violation of service conditions by the Respondent Management and also comes under the terms of unfair labour practices adopted by the Respondent Management.

(vii) The Petitioner has sent several representations to the Respondent Management, but, the 1st Respondent failed and neglect to take action on the said petitions. Hence, the Petition.

3. Notice served to both the Petitioner and Respondent. Petitioner appeared and engaged an Advocate to represent him. Though the Respondent has engaged his Advocate, but, not chosen to file its counter after sufficient time given by this Court. Neither Respondent Management appeared nor represented by its Counsel. Hence, the Respondent Management was set *ex parte* on 24-04-2023. Claim Petition filed by the Petitioner.

4. Respondent remained *ex parte* as counter not filed. Proof affidavit of Petitioner filed, he himself examined as PW1. Ex.P1 to P11 were marked.

5. On perusal of case records it is found that this reference has been made with regard to the dispute raised by the Petitioner for promotion to the post of operator. The records reveals that the Petitioner has filed claim statement, but, the Respondent has remained *ex parte*. The records further reveals that the Petitioner was examined in Chief and it is at this stage the Counsel for Petitioner has filed a letter stating that the Respondent has decided to give promotion to the Petitioner and therefore, the Petitioner wants to withdraw the claim statement. Today the Petitioner present and endorsed that he is withdrawing the claim statement. Hence on recording the above, this Court is inclined to dismiss the claim petition.

In the result, the reference is disposed and the claim petition is hereby dismissed as withdrawn.

Dictated to the Stenographer, directly typed by him, corrected and pronounced by me in the open Court on this 6th day of July, 2023.

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

GOVERNMENT OF PUDUCHERRY
HINDU RELIGIOUS INSTITUTIONS AND WAQF

(G.O. Ms. No. 40/CHRI/T.4/2023,
Puducherry, dated 10th November 2023)

ORDER

Adverting to the Orders, dated 30-06-2023 of the Hon'ble High Court of Judicature at Madras in W.P. Nos. 34726 of 2022 and 3241 of 2023, and G.O. Ms. No. 1/CHRI/T.2/2023, dated 14-07-2023 and in exercise of the powers conferred under the Puducherry Hindu Religious Institutions Act, 1972, Thiru S. Sezhian, s/o. Sinnathami, Lower Division Clerk, Ariyankuppam Commune Panchayat, Puducherry, is hereby appointed as Temple Administrative Officer of Arulmigu Sri Muthumariamman Thirukoil, Manavelly, Ariyankuppam Commune, Puducherry, on honorary basis. The Temple Administrative Officer shall administer the said Devasthanam as envisaged in the provisions of the Puducherry Hindu Religious Institutions Act, 1972 and the rules framed thereunder.

Important duties and responsibilities of the Temple Administrative Officer are given below :

(i) To take over the administration of the said Devasthanam along with movable and immovable assets;

(ii) Submission of compliance report on taking over of the administration of the temple along with the details of movable and immovable properties with a period of fifteen days from taking over the administration;

(iii) Submission of annual report on maintenance of movable and immovable assets including the cleaning and desilting of temple ponds;

(iv) To coordinate and facilitate the completion of work undertaken by donors as per rule 13 (9);

(v) Submission of annual budget by March as per rule 13 of the Act;

(vi) To maintain accounts as per sections 14 to 17 of Hindu Religious Institutions Act and to get the accounts, audited annually by the Directorate of Accounts and Treasuries, Puducherry;