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# புதுச்சேரி மாநில அரசிதழ்

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

அதிகாரம் பெற்ற வெளியீடு

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No.		Poudouchéry	Mardi	23	Janvier	2024 (3 Magha 1945)
No.		Puducherry	Tuesday	23rd	January	2024

பொருளடக்கம்

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Sl. No.	Catalogue No.	Pledge Loan			Pawner			Pledge Article		Approximate Value		
		Date	No.	Amount	Name	F/o, H/o, D/o Name	Address	Description of the Article	Weight			
									Gold	Silver		
456	456	5/12/19	9719	800	SHANMUGASUNDARAN	SRINIVASAN	MUTHIALPET	ONESILVER SINGLE VILAKU		48.000	2434	
457	457	7/12/19	9744	1200	AAKASH	PETER	ARIYANKUPPAM	ONE SILVER ARUNAKAIR		55.000	2789	
458	458	7/12/19	9766	1300	MUNIAMMA	LOURDESAMY	MUTHIALPET	ONE SILVER VILAKU ONE SILVER STAND		60.000	3042	
459	459	10/12/19	9802	1200	VISHNU	JAYASEETARAM	MUTHIALPET	ONE RING	0.500		1820	
460	460	12/12/19	9841	900	SASIKUMAR	KANDASAMY	KOTAKKUPAM	ONE PAIR RANAL, ONE SINGLE GUNDU WITH ARAKU	0.400		1458	
461	461	14/12/19	9855	1300	RADHA	KARTHIKEYAN	MUTHIALPET	TWO SILVER TUMBLER		66.000	3346	
462	462	16/12/19	9888	4500	KARTHICK	RAMU	MUTHIALPET	ONE PAIR EAR VALAYAM, ONE PAIR DISCO TOPS, ONE PAIR DISCO STONED TOPS	2.000		7280	
463	463	16/12/19	9892	1500	BASKAR	ANNAMALAI	MUTHIALPET	ONE PAIR SILVER GOLUSU ONE SILVER HAND CHAIN		59.000	2991	
464	464	20/12/19	9958	2000	RAGU	MANI	MUTHIALPET	ONE PAIR SILVER GOLUSU		74.000	3752	
465	465	21/12/19	9965	500	PRABHA	KANNAN	MUTHIALPET	ONE SILVER GURUMATH		20.000	1014	
466	466	22/12/19	9971	1600	SUSILA	ARUMUGAM	SAMIPILLAI THOTTAM	ONE PAIR SMALL TOPS	0.900		3276	
467	467	23/12/19	9990	1000	SITHALAXMI	PANDURANGAN	MUTHIALPET	ONE PAIR SMALL TOPS	0.450		1638	
468	468	26/12/19	E 26	800	JAFAR ALI	HAJITH RAHAMAN	KOTAKKUPAM	TWO SILVER GURUMATH		38.000	1927	
469	469	26/12/19	E 31	8500	SHANTI	DEENASUNDAR	MUTHIALPET	TWO RINGS	3.900		15288	
470	470	28/12/19	E 50	10000	SIVAKUMAR	SIVALINGAM	MUTHIALPET	ONE RING ONE PAIR TOPS	4.000		14560	
471	471	30/12/19	E 82	2900	SELVI	SIVAKUMAR	MUTHIALPET	ONE PAIR SILVER GOLUSU		123.000	6236	
				40000								72849

## CATALOGUE CONSOLIDATION STATEMENT

Sl.No.	Details of Article	No. of Articles	Total Pledge Amount Rs. P.	Approximate Value Rs. P.
1	Gold Jewels	207	1879805	3814508
2	Silver Jewels	181	316315	738328
3	Stainless Vessels			
	TOTAL	478	2196120	4549900

GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT

(G.O. Rt. No. 114/AIL/Lab./S/2023,  
Puducherry, dated 06th December 2023)

## NOTIFICATION

Whereas, an Award in I.D (L) No. 12/2018, dated 17-08-2023 of the Labour Court, Puducherry, in respect of dispute between the M/s. Brightenex Private Limited, Thattanchavady, Puducherry and Thiru A. Deiveegan, 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. G.T. AMBIKA, M.L., PGDCLCF.,  
Presiding Officer.

Thursday, the 17th day of August, 2023

**I.D. (L) No. 12/2018****CNR. No. PYPY06-000111-2018**

A. Deiveegan,  
S/o. Anthonisamy,  
No. 16-A, Raja Nagar,  
Semmandalam,  
Cuddalore District,  
Tamil Nadu.

. . Petitioner

*Versus*

The Managing Director,  
M/s. Brightenex Private Limited,  
No. A-16, Industrial Estate,  
Thattanchavady,  
Puducherry.

. . Respondent

This Industrial Dispute coming on 19-07-2023 before me for final hearing in the presence of Thiru P. Saravanan, Counsel for the Petitioner, Thiruvalargal Vrintha Mohan, E. V. Chandru @ Chandrasekaran, L.K. Karki and P. Srikandan, Counsels for the respondent and after hearing the both sides and perusing the case records, 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. 25/AIL/Lab./T/2018, dated 27-02-2018 of the Labour Department, Puducherry, to resolve the following dispute between the Petitioner and the Respondents, *viz.*,

(a) Whether the dispute raised by Thiru A. Deiveegan, s/o. Anthonisamy, No. A-16, Raja Nagar, Semmandalam, Cuddalore, Tamil Nadu against the Management of M/s. Brightenex Private Limited, No. A-16, Industrial Estate, Thattanchavady, 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 averments stated in the claim petition filed by the Petitioner is as follows:*

The Petitioner was working in the Respondent Company as employee from 27-11-1994 onwards to till the date of dismissal from service on 30-05-2017 for about 23 years in the Respondent's Unit of Brightenex Private Limited in Bold and Nuts manufacturing Factory at Puducherry.

(ii) The Petitioner was working as Cell Leader (informally called as Supervisor) in the M/s. Brightenex Private Limited, Thattanchavady, Puducherry, continuously for 23 years with utmost satisfaction of the Management and without giving any room for remarks and while so the Management has transferred the Petitioner to Raw Material Store from the Machine Operator Division and then transferred to Scrap Area in order to reduce his importance in the working sections and without any valid reasons. Due to his family circumstances the Petitioner obeyed the orders of the Management and put his hard work in the said employment.

(iii) The Petitioner workmen is informally called as Supervisor and he was actually working in a position as Cell Leader. The Respondent Management issued the salary slip to the Petitioner with Designation as Cell Leader. Therefore, the Petitioner's employment status and Designation as "Cell Leader" is considered as "Workman" as per Labour Act.

(iv) The alleged statement by the Respondent/Management that the Petitioner was working as Supervisor and therefore, this industrial dispute is not maintainable is invented maliciously to defeat the *bona fide* claim of this innocent Petitioner/Workman.

(v) On one occasion, the barrels containing waste oil and waste solutions were loaded in the lorry under his supervision through Thiru Ayyanar, Forklift Operator to dispatch the same to Viswas Lubes Company on 25-05-2017. When Thiru Arunachalam (Contract Labour) was also there and on completion of the loading work the Petitioner returned back to his place at 10.00 a.m. after an hour, he came to know that Thiruvalargal A.K. Sha and A. Saravanan checked the loaded barrels in the lorry and found 3 numbers of cane containing diesel and the Petitioner rushed immediately to the spot. In the spot enquiry, the Petitioner informed that he does not know how those diesel canes found available in the loaded lorry at the time, Thiru Arunachalam, Contract labour he himself admitted that he handed-over those diesel canes to the load men and also took responsibility for such wrongdoings, but, the Management did not take their statement into account for consideration.

(vi) Thiru A.L. Sha, Managing Director directly conducted the enquiry with the Petitioner and others *viz.*, Thiruvalargal A.K. Sha and A. Saravanan. The Petitioner clearly informed the facts of the incidents to the Managing Director and on completion of the enquiry the Managing Director obtained signature of the Petitioner and 2 others in a Written-Statement and thereafter, he continued his work in the Company as usual. On 30-05-2007 at 3.00 p.m. Tmt. Bhuvanewari, in-charge of H.R. Department has informed that he was terminated from service with effect from 30-05-2017 and instructed to receive the order to this effect and sign in the settlement paper, after getting two months salaries.

(vii) The Petitioner was refused to receive the Termination Order as his Superior Thiru Sivaprakasam was on leave, but, the same was sent by post to his address and the post was received by the Petitioner's family members on 02-06-2017. The Management made a conspiracy with pre-planned idea to expel the Petitioner from the Company. Therefore, the Petitioner has requested the Conciliation Authority to take this case on file and issued necessary instructions to the Management to revoke the Termination Order and to reinstate him into service.

(viii) No reasonable opportunities were given to the Petitioner and even no reasonable time-duration were given to this Petitioner for establishing his

defense and innocent. The proceedings were conducted in a hurried manner and his oral and documentary evidences were not allowed to be submitted in accordance with Labour laws. In order to achieve its illegal-objects for the termination of the Petitioner, "the Respondent's company violated the principles of natural justice, equity, ethics and good conscience and passed a non-speaking order of unlawful termination without wages thrust upon this innocent Petitioner.

(ix) The Petitioner was appointed and designated as Cell Leader in the Respondent Company till the last date of the Respondent's illegal termination and the said work comes under the category of workmen and therefore, the dispute between the Respondent/Management and the victimized Petitioner/Workmen attracted the industrial dispute under the Industrial Disputes Act. Hence, this petition to set-aside the biased Termination Order, dated 30-05-2017 passed against the Petitioner by the Respondent's Company and direct the Respondent Company to reinstate the Petitioner to his employment with all his back wages, promotions and all other Labour and Employment benefits.

3. *The brief averments of the counter filed by the Respondent is as follows:*

The Petitioner was employed as a Supervisor with the Respondent Management and thus is not a "workman" as per the Labour Laws and thus the Petitioner has no *locus standi* to raise the industrial dispute against the Respondent.

(ii) The Petitioner was appointed as "Supervisor Trainee" in the Respondent Management on 27-05-1994 and thereafter, he was confirmed as "Supervisor" by the Respondent Management on 28-05-1996. That on 18-03-2010 he was issued as work responsibility order which included, "Maintaining inward and outward scrap stock register Department wise and type wise separately".

(iii) While this being so, on 25-05-2017, the Petitioner was caught red handed for stealing diesel from the company scrap yard and since the Petitioner had committed the offence of theft the Respondent Management due to sympathy towards the Petitioner who had worked for nearly 23 years has not lodged any Police Complaint against the Petitioner and decided to let the Petitioner by terminating his service.

(iv) Thereafter, the Respondent Management issued a Termination Letter to the Petitioner on 30-05-2017 and as the same was refused the

Respondent Management sent the letter of Termination along with its covering letter, dated 30-05-2017 to the Respondent through registered post with Acknowledgement Card and the same was received by the Petitioner on 02-06-2017.

(v) Thereafter, the Respondent Management received a letter, dated 07-06-2017 from the Labour Officer (Conciliation), Government of Puducherry regarding a representation given by the Petitioner to it on 06-06-2017. The Respondent Management sent a reply to the Labour Officer (Conciliation), through Registered post with AD Card, dated 30-06-2017.

(vi) Thereafter, the Respondent Management has sent a show cause, dated 04-11-2017 to the Petitioner and the same was duly served to the Petitioner through registered post with AD Card on 07-11-2017. subsequently Mr. Ashok Kumar, Advocate was appointed an Enquiry Officer on for the offences done by the Petitioner.

(vii) The Enquiry Officer had conducted a fair enquiry by following principles of natural justice and had intimated to the Petitioner about the time, date and place of enquiry as 24-10-2018 at 4.30 p.m. at the office of the Advocate through post as early as on 10-10-2018, but, the Petitioner after receiving the notice failed to appear and thus the enquiry was reposted to 30-10-2018 and again the Petitioner failed to appear and explain his case. Therefore, the Enquiry Officer was constrained to set the Petitioner *ex parte* and as the Petitioner has failed to use the opportunity given to him the adverse inference has to be made that the Petitioner is accepting his crime and faults. The Enquiry Officer submitted his Enquiry Report on 12-06-2019.

(viii) Thereafter, the Respondent Management has sent a final show cause notice to the Petitioner on 04-10-2019 and the same was received by the Petitioner *vide* AD Card, dated 06-10-2019. The Respondent Management has followed all the Principles of natural justice and has given ample opportunity to the Petitioner to prove his innocence and as beyond all reasonable doubts the act of theft done by the Petitioner was proved he was rightly terminated from service for his misconduct.

(ix) The Petitioner was removed from the services for the grave misconduct of theft, and further as the same was proved beyond reasonable doubt in an independent and impartial domestic enquiry. Therefore, the dismissal of Petitioner from service is fully justified and warrants non interference of this Court. Hence, prayed for dismissal of the claim petition.

4. *Point for determination:*

1. Whether the dispute raised by the Petitioner is maintainable before this Court?

2. Whether the dispute raised by the Petitioner over his non-employment is justified or not?

3. If justified, to what relief the Petitioner is entitled to?

5. On the side of Petitioner, the Petitioner himself was examined as PW.1 and Ex.P1 to P11 and through cross-examination of PW.1 Exs. R1 to R8 was marked. On Respondent side Mr. Nagarathinam, Head - H.R of Respondent Management was examined as RW.1 and through him Exs.R9 to R12 were marked. Mr. Saravanan, Senior Executive - Administration - Purchase Department was examined as RW.2. No exhibits were marked through him.

6. *On the points 1 to 3:*

The facts of the case as put forth by the Petitioner is as follows:

That the Petitioner was working in the Respondent company as Cell leader but, informally he was called as "Supervisor" and further the Petitioner was working continuously for 23 years with utmost satisfaction of Respondent Management and while so the Petitioner was transferred to raw material store from the machine operation division and then to scrap area without any valid reasons and to reduce the importance of the Petitioner but, still the Petitioner had obeyed the orders of the Respondent Management considering his family circumstances. The Petitioner further submits that on 25-05-2017 barrels containing waste oil and solutions were loaded in the lorry under the supervision of Petitioner through one Ayyanar Forklift operator and Arunachalam Contract Labour and later upon inspection by A.K. Shah - Finance Manager and Mr. A. Saravanan, Senior Executive it was found that two barrels of fresh diesel was loaded in the vehicle and thereafter, the Petitioner on coming to know about the same had rushed to the spot and during spot enquiry the Petitioner had informed that he does not know as to how the diesel cans were loaded in the lorry but, one Arunachalam Contract labour had admitted that he had handed over those diesel cans to the load men and took the responsibility, but, the Management did not take into consideration of the statement of said Arunachalam. The Petitioner further states that thereafter, A.L. Sha, the Managing Director has directly conducted the enquiry and on 30-05-2017 the incharge of HR. Department had informed that the Petitioner was terminated from the

service with effect from 30-05-2017. It is the prime contention of the Petitioner that the Petitioner having completed 23 years of service in the Respondent Company was planned to be expelled from the Respondent Company and thereby the above case was foisted against the Petitioner and the Petitioner was not given reasonable opportunity to establish his defense and the proceedings were conducted in an hurried manner and therefore, the termination is an illegal one.

7. On the other hand the first contention of the Respondent Management is that the Petitioner was employed as supervisor and therefore, the Petitioner is not a workman and has no *locus standi* to approach this Court. The other contention of the Respondent is that the Petitioner was caught red handed while stealing diesel from the company scrap yard and thereby the Petitioner had committed the offence of theft, but, however the Management out of sympathy upon the Petitioner who had completed 23 years of service in the Respondent Management has not lodged any police complaint against the Petitioner and decided to let the Petitioner by terminating his service by issuing Termination Letter on 30-05-2017. The Respondent further submits that thereafter a letter, dated 07-06-2017 was received from the Labour Department and subsequently the Respondent Management had issued charge-sheet, dated 04-11-2017 and the same was served upon the Petitioner on 07-11-2017 and later had appointed an Enquiry Officer, but, however the Petitioner failed to appear before the Enquiry Officer and explain his case and therefore, the Petitioner was set *ex parte* and Enquiry Report was issued stating the charge was proved and thereafter, final show cause notice was issued to the Petitioner on 04-10-2019, but, the Petitioner even after receipt of the same has not submitted any reply and therefore, the Petitioner was terminated from service since the Petitioner failed to prove his innocence regarding the act of theft done by the Petitioner. The conduct of the Respondent warrants maximum punishment and therefore, he was terminated from service.

8. In this case the first contention of the Respondent is that the Petitioner was employed as a "Supervisor" and therefore, the Petitioner does not fall within the ambit of definition of workman and therefore, the Petitioner has no *locus standi* to approach this Court. Whereas, the contention of the Petitioner in the claim statement as well as in his evidence is that he was informally called as supervisor, but, he was working only as a Cell Leader and further the Respondent Management had issued salary slip to the Petitioner with designation as Cell Leader and the said Designation is considered

as workman as per Industrial Disputes Act. The Respondent to substantiate that the Petitioner was employed and working as a supervisor has relied upon Ex.R1 Appointment Letter with service standing orders which has been admitted by the Petitioner in his cross-examination. Whereas, the Petitioner has relied upon Ex.P11 Pay Slip pertaining to the month he was terminated that is Pay Slip for the month of May 2017 wherein the Designation is stated as Cell Leader.

9. The R.W.1 examined on the side of Respondent Management has not denied the designation as stated in Ex.P11 and further during his cross-examination has deposed as follows:

மனுதாரருக்கு வழங்கப்படும் Leave, Permission, Increment ஆகியவற்றுக்கு திரு. சிவபிரகாசம் - Head Incharge என்பவர் தான் Signing Authority என்றால் ஆமாம். மனுதாரர் வேலை செய்யும் போது Scrap, Fork Lift Operation and Maintenance, Diesel Barrel Maintenance ஆகியவற்றுக்கு திரு. சிவப்பிரகாசம் - Head Incharge தான் பொறுப்பு என்றால் ஆமாம். இது சம்மந்தமாக மனுதாரர் தன்னிச்சையாக எந்த முடிவும் எடுக்க முடியாது என்றால் ஆமாம் மனுதாரரை போல DME படித்தவர்களை முதலில் எங்கள் தொழிசலையில் Machine Operator-ராக சில காலம் பணியமர்த்துவோம். அப்போதுதான் அவர்கள் பின்னிட்டு Supervise செய்ய முடியும். மனுதாரரை போல் Diploma படித்தவர்களை Term Employee என்றும் பின்னிட்டு Probation 01, Probation 02, Cell Leader பின்னிட்டு Supervisor-ஆக பதவி உயர்வு அளிக்கப்படும்.

10. Thus, the RW.1 during his cross-examination has deposed that the Head incharge, in respect of the section where the Petitioner works that is Scrap, Fork Lift operation and Maintenance, Diesel Barrel Maintenance is one Thiru Sivaprakasam and further the said Sivaprakasam is the signing Authority to grant, Leave, permission, increment for the Petitioner and further deposed that for the persons like Petitioner who have studied DME would be initially employed as Term employee, then as Probation 01, Probation 02, Cell leader and then would be promoted as Supervisor. Thus as per the evidence of R.W.1 after working as Cell Leader the promotion would be given to the post of Supervisor. Hence, as per the evidence of R.W.1 it could be found that the post of Supervisor is a promotional post which would be given after the post of Cell Leader and further the post of Cell Leader and the post of Supervisor are distinct one. Though as per Ex.R1 Appointment Letter issued on 08-12-1997 it is stated that the Petitioner is appointed as Supervisor Trainee, but, in the last Pay slip of the Petitioner that is for the month of May 2017 the designation is stated as Cell Leader. Hence, from Ex.P11 pay slip for the Month of May 2017 it could be inferred that the Petitioner was working as Cell Leader in the Respondent company. When it is the evidence

of R.W.1 that from the post of Cell Leader the promotion to the post of Supervisor would be given and further the Petitioner posting as per last pay slip that is Ex.P11 the designation of the Petitioner was Cell Leader and further one Sivaprakasam was Head Incharge of the section where the Petitioner worked then it is for the Respondent to prove that the work of the Petitioner was in supervisory category because section 2(s) of Industrial Dispute Act provides for the exceptions to the definition "Workman" in (iii) and (iv) of the said section which states as follows:

"mainly in managerial or administrative capacity" or being employed in a supervisory capacity, draws wages exceeding the prescribed limit(s); and exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

11. Thus, as per 2(s) of Industrial Disputes Act, the definition of "workman" means, any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational clerical or supervisory work for hire or reward, whether the terms of employment be express or implied and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but, does not include any such person who is employed mainly in a managerial or administrative capacity or who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

12. Therefore, the exception makes explicit that if a workman is not discharging any supervisory function then the exception will not apply. In the present case the Petitioner as per Ex.P11 pay slip for the month of May 2017 is found to be employed as Cell leader and as per the evidence of both sides the Petitioner was in charge of loading and unloading the barrels containing waste oil and waste solution in a lorry through one Ayyanar Forklift operator. Thus, from Ex.P11 Pay Slip and the nature of work done by the Petitioner it is found that the Management has miserably failed to prove that the Petitioner was discharging "managerial/supervisory/administrative" functions. When that being so, this Court from the evidences of both sides holds that the Petitioner falls well within the definition of "Workman" as per section 2(s) of the Industrial Disputes Act and does not fall in any of the exceptions of the said section.

13. The next question that arises for consideration is whether the Petitioner was terminated from the employment after conducting proper enquiry by providing ample opportunity to disprove the charge against him and further by following the principles of natural justice. It is the case of the Respondent that on 25-05-2017 the Petitioner while loading waste oil and solution through Ayyanar Forklift operator and casual labour Arunachalam has attempted to steal diesel from the company through trucks carrying the waste oil and solutions and after the theft was discovered the Petitioner was asked for written explanation, but, the Petitioner was unable to offer any explanation as to how the diesel cans were found in the lorry after the Petitioner had checked and released the lorry and further during the enquiry proceedings the Petitioner has failed to appear and wantonly left *ex parte* and therefore after following all the principles of natural justice the Petitioner was dismissed from the service.

14. Whereas the Petitioner contends that the Petitioner was working continuously for 23 years with utmost satisfaction of Respondent Management and while so the Petitioner was transferred to Raw material store from the machine operation Division and then to scrap area to reduce his importance in the working section but due to family circumstances he obeyed the orders of the Management and while so on 25.05.2017 the waste oil and waste solutions were loaded in the lorry through one Ayyanar Forklift operator and Arunachalam contract labour under his supervision and after completion of the loading work the Petitioner has returned to his place and later after an hour he came to know that A.K. Shah - Finance Manager and Mr. A. Saravanan - Senior Executive have checked the loaded barrels in the lorry and found that two barrels of fresh diesel was loaded in the vehicle and thereafter the Petitioner on coming to know about the same had rushed to the spot and in the spot enquiry the Petitioner informed that he does not know as to how the diesel cans were loaded but one Arunachalam Contract labour had admitted that he had handed over those barrels to the load men and took the responsibility but the Management did not take into consideration of the statement of said Arunachalam. The Petitioner further states that thereafter, A.L. Sha, the Managing Director has directly conducted the enquiry and on 30-05-2017 the incharge of HR department informed that the Petitioner was terminated from service with effect from 30-05-2017. The Petitioner's prime contention is that the Petitioner having completed 23 years of service the Management had planned to expel the Petitioner from the Respondent company and

further the Petitioner was not given reasonable opportunity to establish his defense and innocence all the proceedings were conducted in an hurried manner.

15. Thus, the core point that arises for consideration is whether the principles of natural justice has been followed during the enquiry proceedings and further, whether the Petitioner was given reasonable opportunity to prove his defence before dismissal from employment. On perusal of Ex.R9 the statement of fact stated to have been recorded by A.K. Shah - Finance Manager of Respondent company it is found that the date of occurrence of alleged theft of two Jerry Can containing fresh diesel in the lorry loaded with barrels of waste oil and waste solution for sale and disposal to Visves Lub is on 25-05-2017. Similarly, on perusal of Ex.P2 it is stated that on 30-05-2017 the Management has decided to terminate the Petitioner from service with effect from 30-05-2017. The contention of the Petitioner is that on 25-05-2017 there was spot enquiry by A.K. Shah - Finance Manager and A. Saravanan - Senior Executive and thereafter A.L. Sha Managing Director had conducted the enquiry with the Petitioner and subsequently on 30-05-2017 at 3 p.m. the Petitioner was informed that he was terminated from service with effect from 30-05-2017. Thus, from the above it could be inferred that alleged occurrence of theft is stated to have occurred on 25-05-2017 and later after spot enquiry on 25-05-2017 and after enquiry by the Managing Director the Petitioner on 30-05-2017 was terminated from service with effect from 30-05-2017.

16. Further, from the documents relied by the Petitioner and Respondent it is found that as per Ex.P3 on 06-06-2017 the Petitioner thereafter has approached Labour Officer (Conciliation) and as per Ex.P6 Charge sheet, dated 04-11-2017 was sent to Petitioner and as per Ex.R11 the Respondent Management on 08-10-2018 has appointed Mr. S. Asokumar, Advocate as Enquiry Officer and as per Ex.R8 on 12-06-2019 the Enquiry Officer has prepared his Enquiry Report and as per Ex.R7 series letter, dated 22-10-2019 the Respondent Management based on Enquiry report has upheld the Termination order, dated 30-05-2017 and dismissed the Petitioner from employment. Thus, it is found that initially the Respondent Management without serving charge sheet and without appointing an Enquiry Officer and without conducting due enquiry and without following principles of natural justice and without the Enquiry Report has terminated the Petitioner on 30-05-2017 itself and thereafter the Petitioner is found to have approached Labour Officer (Conciliation) as per Ex.P3 letter, dated 06-06-2017 and thereafter, charge sheet is found to have sent to the Petitioner and Enquiry

Officer was appointed and Enquiry was conducted and subsequently as per Ex.R7 series on 22-10-2019 the Termination order initially done on 30-05-2017 was upheld and the Petitioner was dismissed from the service.

17. However, it is the contention of the Respondent Management that after the Petitioner was served with charge sheet, dated 04-11-2017 the Petitioner inspite of receipt of notice of hearing from the Enquiry Officer has failed to appear for the Enquiry and wantonly left the enquiry *ex parte* and therefore after following all the principles of natural justice and after giving sufficient opportunity to the Petitioner to prove his innocence regarding it came to be concluded that the act of theft was proved beyond all reasonable doubts and thereby the Petitioner was terminated from service for his grave misconduct. The Petitioner also during his cross examination admitted that he was served with Ex.P9 notice of hearing from the Enquiry Officer and further inspite of receipt of Ex.P9 he had not appeared before Enquiry Officer. Thus from the evidence of Petitioner it is found that the Petitioner inspite of knowing about the enquiry proceedings has failed to appear before Enquiry Officer and left the enquiry proceedings *ex parte* and thereafter Enquiry Officer has prepared the Enquiry Report Ex.R8 on 12-06-2019 and again the Petitioner was called upon to give his written explanation to the Enquiry Report as per Ex.R6 series letter, dated 04-10-2019, but, again the Petitioner has not responded and therefore as per Ex.R7 series letter, dated 22-10-2019 the termination of Petitioner on 30-05-2017 was upheld and the Petitioner was dismissed from his employment.

18. This Court on perusal of above Ex.P9 notice of hearing for the enquiry sent by the Enquiry Officer and Ex.R6 series letter sent by the Respondent Management to the Petitioner, finds that no doubt the Petitioner was aware of Enquiry proceedings and Enquiry Report but still the Petitioner has failed to appear before Enquiry Officer and give written explanation for the Enquiry Report and thereby the Petitioner is found to have left the enquiry proceedings *ex parte* and thereby, the contention of the Respondent at the outset that during the enquiry proceedings the Petitioner was given opportunity to disprove the case against him and further, all principles of natural justice was followed during the enquiry proceedings and also while passing orders based on Enquiry Report is found to be acceptable one. However, at this juncture it becomes necessary to consider whether the procedure adopted by the Respondent from the beginning till the passing of dismissal order was proper and without any bias and further free and fair opportunity was given to the Petitioner to dispel the charge against him.

19. On perusal of Ex.P2 it is found that the Respondent Management initially has terminated the Petitioner from service with effect from 30-05-2017 without conducting due enquiry. The reason stated by the Respondent is that as per the provisions of the Industrial Employment (SO) Central Rules 1946 under section 14(2) of Schedule 1 based on the grievous misconduct the Petitioner can be terminated from service without notice, this Court on perusal of Ex.R1 Appointment letter with Service Standing Orders finds that it is stated that for theft, fraud or dishonesty in conjunction with the employer's business or property the Sanction Category is 5 and as per Sanction Category 5 for first offence the punishment is Termination. Thus, as per the Service Standing Orders of Respondent Management the punishment prescribed for theft for the very first time itself is termination but however in the standing order there is no any statement that the punishment of termination can be provided without affording opportunity to the employee. Thus, even for providing the punishment of termination it is mandatory for the Respondent Management to follow the principles of natural justice by affording opportunity to the Petitioner to disprove the charge during the enquiry proceedings. In this case the Enquiry Officer to conduct enquiry as against the Petitioner was appointed as per Ex.R11 on 08-10-2018 and thereafter, enquiry is found to have commenced and the Enquiry Report Ex.R8 is found to have been prepared on 12-06-2019.

20. Thus, from the above discussions it is found that the Petitioner is found to have been punished initially without any due enquiry as early as on 30-05-2017 by terminating him from the service and thereafter in the said continuous status of termination the Enquiry is found to have been commenced by appointing Enquiry Officer on 08-10-2018 and thereafter the Enquiry Report is found to have been emerged on 12-06-2019. Therefore, in the said context this Court finds that the very fairness of the enquiry itself is doubtful because when the Petitioner was already punished by the Respondent Management as early as on 30-05-2017 and further when the said termination continued to be in force than in such case the contention of the Respondent that fair enquiry by following principles of natural justice was held is found to be unacceptable one. This Court opines that principles of natural justice requires that the Petitioner must be given all opportunity to establish his innocence and must also be placed in a situation which does not give any room for fear and must also give hope that there would be a fair enquiry. However in this case all procedures with regard to appointment of Enquiry Officer and further the enquiry proceedings is found to have been conducted later point of time that is more particularly after the



Petitioner was punished by terminating him from the employment. Therefore, in the said context though the Petitioner has not explained during his cross-examination the reason for his non-appearance before the Enquiry Officer, but, still from the beginning the procedure adopted by the Respondent during the enquiry proceedings is found to be one sided since, the Petitioner was already punished by way of termination and further in the said status of termination the Petitioner was compelled to attend the enquiry for the name sake so as to make it appear that all due procedures were followed by the Respondent Management so as to justify; and confirm the earlier punishment of termination which was imposed prior to the Enquiry and Enquiry Report.

21. Furthermore even after Enquiry Report, dated 12-06-2019 the Respondent while passing orders as per Ex.R7 series letter, dated 22-10-2019 based on Enquiry Report is found to have again upheld the Termination order passed on 30-05-2017 that is the punishment given prior to the enquiry. Thus, this Court finds that the Respondent Management has not passed any final order independently based on the Enquiry Report, but, on the other hand has attempted to justify and legalise the punishment which was given to the Petitioner prior to enquiry. Thus, viewed in any angle this Court finds that the Enquiry Officer has not conducted the enquiry in a fair manner by following the principles of natural justice. Therefore, this Court finds that the enquiry conducted by the Respondent Management through the Enquiry Officer is not a valid one and thereby the termination of the Petitioner by the Respondent based on the Enquiry Report is found to be unsustainable and illegal one. In view of above discussions it is held that Industrial dispute raised by the Petitioner as against the Respondent Management over his non-employment is justified and as such this Court holds that the Petitioner is entitled for reinstatement as claimed by him.

22. Now coming to the other aspects of back wages and other attendant benefits is concerned, this Court finds that in this case the Respondent has not proved that the Petitioner was gainfully employed any where else and earning income. However it is found that the Petitioner was sustaining his day to day life even this situation and the same could not be done without any income. Hence, this Court on considering the circumstances, deems fit that the Petitioner is entitled for 30% back wages with continuity of service and other attendant benefits. 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-employment is justified and the Respondent Management is directed to reinstate the Petitioner into service within two months from the date of this award and further directed to pay 30% of back wages from the date of termination till the date of reinstatement with continuity of service and other attendant benefits. There is no order as to costs.

Dictated to the Stenographer, directly typed by him, corrected and pronounced by me in open Court on this the 17th day of August, 2023.

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

*List of petitioner's witness:*

PW.1 — 26-02-2020 Thiru Deiveegam

*List of petitioner's exhibits :*

Ex.P1 — 30-05-2017 Photocopy of the letter issued by the Respondent to the Petitioner.

Ex.P2 — 30-05-2017 Photocopy of the letter issued by the Respondent to the Petitioner.

Ex.P3 — 06-06-2017 Photocopy of the letter Submitted by the Petitioner before the Conciliation Officer.

Ex.P4 — 30-06-2017 Photocopy of the reply letter submitted by the Respondent before the Conciliation Officer.

Ex.P5 — 05-07-2017 Photocopy of the notice issued by the Conciliation Officer regarding enquiry to the Petitioner and the Respondent.

Ex.P6 — 04-11-2017 Photocopy of the Charge Sheet issued by the Respondent to the Petitioner through RPAD.

Ex.P7 — 29-01-2018 Photocopy of the Failure report given by the Conciliation Officer.

Ex.P8 — 27-02-2018 Photocopy of the Notification issued by the Government of Puducherry.

- Ex.P9 — 10-01-2018 Photocopy of the Enquiry notice issued by the Enquiry Officer by name Mr. Ashok Kumar, Advocate to the Petitioner.
- Ex.P10 — 24-10-2018 Photocopy of the Enquiry notice issued by the Enquiry Officer by name Mr. Ashok Kumar.
- Ex.P11 — — Photocopy of the Pay slip of the Petitioner for the Month of May 2017.

*List of Respondent's witness:*

- RW1 — 14-10-2022 Thiru Nagarathinam, Head - HR of the Respondent Management.
- RW2 — 02-03-2023 Thiru Saravanan, Sr. Executive Officer (Purchase) of the Respondent Management.

*List of Respondent's Exhibits:*

- Ex.R1 — 08-12-1997 Appointment Letter with Service Standing Order issued by the Respondent Management to the Petitioner.
- Ex.R2 — 18-03-2010 Office copy of the Petitioner's Work responsibility.
- Ex.R3 — 30-05-2017 Termination order issued by Respondent Management to the Petitioner.
- Ex.R4 — 30-05-2017 Respondent Management sent the Termination letter to the Petitioner' residential address through Registered post with AD Card.
- Ex.R5 — 04-11-2017 Respondent Management sent a Charge Sheet to the Petitioner' residential address through Registered post with AD Card.
- Ex.R6 — 04-10-2019 Respondent Management sent a show cause notice to the Petitioner' residential address through Registered post with AD Card.
- Ex.R7 — 22-10-2019 Respondent Management sent a Final notice to the Petitioner' residential address through Registered post with AD Card.

- Ex.R8 — 12-06-2019 Photocopy of the Enquiry Report submitted by the Enquiry Officer Mr. Ashok Kumar.
- Ex.R9 — 25-05-2017 Spot Inspection Report signed by the Employee and Inspection Officer.
- Ex.R10 — 30-06-2017 Letter addressed to Labour Officer (Conciliation) by the Management regarding dispute raised by Deiveegam.
- Ex.R11 — 08-10-2018 Letter of the Management appointing Enquiry Officer along with acknowledgment of receipt by an Advocate.
- Ex.R12 — 24-08-2022 Authorization letter for deposing evidence in ID(L). 12/2018.

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

GOVERNMENT OF PUDUCHERRY  
**LABOUR DEPARTMENT**  
(G.O. Rt. No. 115/AIL/Lab./S/2023,  
Puducherry, dated 06th December 2023)

NOTIFICATION

Whereas, an Award in I.D (L) No. 05/2019, dated 21-08-2023 of the Labour Court, Puducherry, in respect of Dispute between the M/s. Larsen and Toubro Private Limited, Sedarapet, Puducherry and Thiru K. Kamalakannan, Puducherry, over reinstatement with back wages 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.

*Monday, the 21st day of August, 2023.*

**I.D. (L). No. 05/2019  
CNR. No. PYPY06-000005/2019**

K. Kamalakannan,  
Mahalakshmi Nagar,  
Vinothkumar Complex,  
Thiruchitrabalam Kootroad,  
Vanur Taluk, Villupuram District. . . Petitioner

*Versus*

The Managing Director,  
M/s. Larsen and Toubro Private Limited,  
Sedarapet, Puducherry. . . Respondent

This Industrial Dispute coming on 21-08-2023 before me for final hearing in the presence of Thiruvalargal K. Velmurugan and P. Preethi, Counsel for the Petitioner and Thiruvalargal B. Mohandoss, K. Velmurugan, J. Kalirathinam, S. Vijayasanthi, Kanjanamala, R. Anbumathy, A. Asha and Indrajith, Counsels for the Respondent, and after perusing the case records, this Court delivered the following:

**ORDER**

This Industrial Dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 10/AIL/Lab./T/2019, dated 28-01-2019 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 K. Kamalakannan, Puducherry, against the Management of M/s. Larsen and Toubro Private Limited, Sedarapet, Puducherry, over reinstatement with back wages 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. Today when the case came up for hearing, no representation on Petitioner's side in spite of posting for steps for amendment as no further adjournments. Further more, the Petitioner is not present for several hearing dates.

Hence, this reference is closed for non prosecution.

Written and pronounced by me in the open Court on this the 21st day of August, 2023.

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

**புதுச்சேரி அரசு**

**துணை மாவட்ட ஆட்சியர் (வருவாய்) அலுவலகம், காரைக்கால்**

*No. 7924/DCR/KKL/LGR/MVP/C3/2022-23.*

**அறிவிக்கை**

[புதுச்சேரி நில மானிய விதி 1975, விதி 60(iii)-ன் கீழ்]

புதுச்சேரி அரசால் தங்களுக்கு ஒப்படை செய்யப்பட்ட கீழ்க்காணும் நிலவிவரங்களுடைய இடத்தில் தாங்கள் வீடு கட்டாமலோ அல்லது குடியிருக்காமலோ இருப்பதன் மூலம் தங்களுக்கு வழங்கப்பட்ட நில ஒப்படை ஆணையில் காணப்படும் நிபந்தனை (2)-ஐ தாங்கள் கடைபிடிக்காததை அறியவும்.

வரிசை எண்	ஒப்படை பெற்றவரின் பெயர் மற்றும் முகவரி	நகர/மறு அளவை எண்	நிலத்தின் பரப்பளவு	நில ஒப்படை ஆணை எண்
(1)	(2)	(3)	(4)	(5)
			ஹெ. ஆ. சா.	
<b>28. காரைக்கால் வருவாய் கிராமம்</b>				
1	திருமதி ஜீனத்து. க/பெ. தாவுது.	F/1/205	0 00 54	265/94

ஆதலால், இவ்வறிவிப்பு கிடைக்கப்பெற்ற 15 நாட்களுக்குள் தங்களுக்கு வழங்கப்பட்ட இடத்தினை ஏன் அரசே திரும்ப எடுத்துக்கொள்ளக்கூடாது என்பதற்கான காரணங்களை இவ்வலுவலகத்திற்குத் தெரிவிக்கும்படி கேட்டுக்கொள்ளப்படுகிறது. இது தொடர்பாக தாங்கள் கருத்து ஏதேனும் தெரிவிக்க விரும்பினால் மேற்குறிப்பிட்ட காலக்கெடுவிற்குள் கீழ்க்கையொப்பமிட்டுள்ள அதிகாரியிடம் முறையிடலாம்.

குறிப்பிட்ட காலக்கெடுவிற்குள் தாங்கள் நேரிலோ அல்லது கடிதம் வாயிலாகவோ தங்களது கருத்தைத் தெரிவிக்காவிடில், தங்களிடம் கருத்துக்கூற ஏதும் இல்லை எனக் கருதப்பட்டு இதற்கு மேல் எந்த அறிவிப்புமின்றி தங்களுக்கு வழங்கப்பட்ட நில ஒப்படை ஆணை ரத்து செய்யப்படும்.

காரைக்கால், 2023 *வரூப டிசம்பர் மீ* 18 *உ.*

**ஞா. ஜான்சன்,**  
துணை ஆட்சியர் (வருவாய்).