



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	} 5	புதுச்சேரி	செவ்வாய்க்கிழமை	2024	சனவரி மீ	30
No.		Poudouchéry	Mardi	30	Janvier	2024 (10 Magha 1945)
No.		Puducherry	Tuesday	30th	January	2024

பொருளடக்கம்

SOMMAIRES

CONTENTS

	பக்கம்		Page		Page
தொழில் நீதிமன்றத் தீர்ப்புகள் ..	96	Sentence arbitral du Travail ..	96	Award of the Labour Court ..	96
		de Tribunal.			
அரசு அறிவிக்கைகள் ..	104	Notifications du Gouvernement ..	104	Government Notifications ..	104
சாற்றறிக்கைகள் ..	107	Annonces ..	107	Announcements ..	107

GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT

(G.O. Rt. No. 116/AIL/Lab./S/2023,  
Puducherry, dated 06th December 2023)

NOTIFICATION

Whereas, an Award in I.D (L) No. 30/2022, dated 21-08-2023, of the Labour Court, Puducherry, in respect of Dispute between the M/s. Leo Fasteners, Puducherry and Thiru K. Ganapathy, over his 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 23-5-1991, 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. 30/2022**  
**CNR. No. PYPY06-000094-2022**

Ganapathy,  
S/o Kumar,  
No. 92, Annai Priyadarshini Street,  
Jeevanandapuram,  
Lawspet,  
Puducherry. . . Petitioner

*Versus*

The Managing Director,  
M/s. Leo Fasteners,  
No. A-27/A, Industrial Estate,  
Thattanchavady,  
Puducherry. . . Respondent

This Industrial dispute coming on 21-08-2023 before me for final hearing in the presence of Thiruvalargal L. Vinoba, K. Sundarajan, V. Vijayababu and K. Muthukumaran, Counsel for the Petitioner and Thiru K. Parthiban, Counsel 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. 149/Lab./AIL/T/2022, dated 06-09-2023 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. Ganapathy, against the Management of M/s. Leo Fasteners, Thattanchavady, Puducherry, over his non-employment with continuity of service and other attendant benefits 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, Petitioner called absent no representation on Petitioner side inspite of several, adjournments. Claim statement not filed though posting as last chance. Therefore, this Court finds that there is no any purpose to keep this reference pending.

In the result, this reference is closed for non-prosecution.

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

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

GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT

(G.O. Rt. No. 117/AIL/Lab./T/2023,  
Puducherry, dated 08th December 2023)

NOTIFICATION

Whereas, an Award in I.D (T) No. 08/2017, dated 13-09-2023 of the Labour Court, Puducherry, in respect of dispute between the M/s. Jeevan Diesel and Electricals Limited and Jeevan Diesel and Electricals Limited Thozhilalar Viduthalai Munnani, Puducherry, over non-payment of wages and illegal lock-out 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.

*Wednesday, the 30th day of September, 2023.*

**I.D. (L). No. 08/2017  
CNR. No. PYPY06-000107-2017**

The President,  
Jeevan Diesel and Electricals Limited,  
Thozhilalar Viduthalai Munnani,  
R.S. No. 55/1,  
Cuddalore Main Road,  
Kattukuppam,  
Puducherry. . . Petitioner

*Versus*

The Managing Director,  
M/s. Jeevan Diesel and Electricals Limited,  
Unit-II, R.S.No. 55/1,  
Cuddalore Main Road,  
Kattukuppam,  
Manapet,  
Puducherry. . . Respondent

This Industrial Dispute coming on 22-08-2023 before me for final hearing in the presence of Thiru N. Vinayagam, Counsel for the Petitioner, Thiruvargal A. Mithun Chakkaravarthy, V. Arjun Prasad Rao and V. Jayabal, Counsel for the Respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

**ORDER**

This Industrial Dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 26/Lab./AIL/T/2017, dated 15-03-2017 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 Union Jeevan Diesel and Electricals Limited, Thozhilalar Viduthalai Munnani, Puducherry, against the Management of M/s. Jeevan Diesel and Electricals Limited, Puducherry, over non- payment of wages and illegal lock-out is justified or not? If not justified, what relief the Union Workmen are entitled to?

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

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

The Union Members namely, Thiruvargal  
1. S. Vijayamurthy-Electrician, 2. D. Mullaivalavan-Wireman, 3. S. Gnanasekaran-Fitter, 4. L. Paul

Ebanzeer-Technician, 5. D. Velmurugan-Wireman, 6. E. Arul Raj -Store Assistant, 7. P. Venkatachalapathy-Electrician, 8. S. Karthikeyan-Painter, 9. R. Rajasekar-Wireman, 10. J. Vasu-Fitter and 11. L. Lakshminarayanan-Welder are working in the Respondent's factory for the past ten years.

(ii) From June 2015 the Respondent has not disbursed the salary to the said employees and the Respondent has been taking steps to close the factory *i.e.*, illegal lock-out. On 27-08-2015 the Petitioner's Union requested the Labour Officer (Conciliation) to intervene the dispute and take action for the disbursement of the salary and to stop the illegal lock-out by the Respondent.

(iii) The Respondent in their reply letter, dated 15-09-2015 stated the factory will not generate without any business and the working production and AMC Service, *etc.*, were zero, which is strictly not true because the Petitioner's Union never stopped the work and the completed the work given by the Respondent in spite of the non-payment of wages. The Workers had done the factory related works (cleaning/maintenance) and outside DG set work as per the Respondent's instructions.

(iv) The Conciliation proceedings held on 29-09-2015, the workers Union insisted for disbursement of the pending salary from June to September 2015 but, the Respondent once again said there is no production which is not true because the Petitioner's Union were regularly attending the work in the factory premises and also followed the instruction of the service works by submitting the "On duty-out station slip".

(v) The Conciliation proceedings held on 16-10-2016 the Respondent once again stated that "No Work No Salary". The Petitioner's Union stated that they want four months pending salary, but, the Respondent refused to disburse the same. The Respondent blankly refused to pay the arrears of salary but, hiring contractors from outside for urgent work though the Petitioner's Union had never informed that they will not work due to non-payment of pending wages. The Petitioner's Union did the 20 and 25 KVA DG set work as assigned by the Respondent but, the Respondent paid only 15 days salary for the month of October 2015.

(vi) During the Conciliation proceedings held on 27-10-2015 the Labour Officer has directed the Respondent to pay the pending salary and bonus amount to be paid to the workers before Deepavali. The Respondent expected the workers to complete the pending orders and they stopped taking new

orders. This clearly explains that the Respondent's intention is to close the factory. The marketing team also were idle and the sales was also nil in the corresponding months but, the Respondent regularly paid them without arrears, but, the Respondent refuse to pay the pending salary to the working Union labourers.

(vii) The Respondent stated to the Labour Officer that only when the 2 DG set of 1 x 125KVA, 1 x 24 KVA get dispatched to the customers the payment can be collected and only then the salary can be paid to the workers. That is not true because for the past the 20 years the marketing procedure of the factory is that, only after getting full payment from customers only then the DG sets will be dispatched to the customers.

(viii) The conciliation proceedings held on 11-01-2016 the workers demanded the four and half months' salary along with the January salary for Pongal and also due to the heavy floods. The conciliation proceedings held on 21-01-2016 the Respondent accepted to pay the Union workers salary for the month of January 2016 *vide* 11 cheques of State Bank of India, Karnataka, after dispatching the DG set, but, the Petitioner's Union refused and demanded payment before the dispatching of DG sets. Further, the workers were not ready to accept the cheques, as so many cheques issued earlier by the Respondent bounced previously. The workers Union demanded payment by way of online and currency and the Respondent disagreed to the same and hence, dispatch of DG set got held up.

(ix) The Union workers felt that just coming and going without work is not fair for them and the Respondent has informed that the company has turned to BIFR level and the workers demanded full and final settlement, PF/ESI, pending payment and asked the Respondent to relieve them. The Respondent blames the Petitioner's Union for the loss of the company and blamed the Petitioner's Union and insisted that the workers should bear the loss of the company.

(x) The final proceedings held on 29-03-2016, the Respondent instructed the workers to look for alternative jobs and the Petitioner's Union did not agree to that and demanded immediate settlement for the service period. Due to failure of conciliation the dispute has been refused to this Court for adjudication. Hence, the Petitioner's Union prayed for regarding payment of arrears, wages and illegal lock and for necessary monetary reliefs entitled by the employees as per law.

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

The Respondent is a private company and manufacturing the DG set and in Pondicherry Unit the Respondent has allocated the work to the workers as per order of the customer and the Respondent has given the wages as per order received by the Respondent. Totally 10 to 20 employees has been worked in the Respondent company except 3 to 4 employees all other not permanent employees and further submits that the Petitioner has stated the list of employees are the probationary workers of the Respondent company.

(ii) From the starting of company to till January 2015 the company was running successfully and the employees were paid the wages without any due and the Management and workers relationship has been in good manner. The Respondent has paid bonus, festival allowance and other requirement of the workers.

(iii) After January 2015 the Respondent has not receive the orders regularly from the customer while in this situation the Respondent has never put the burden to the workers further Management has paid the wages and other benefits has been paid by the Respondent while so the same situation in Gujarat (another unit) due to that the Management has made heavy loss because of no order has received from the customer in this situation the Management has applied for Sick Industrial Companies before Government of India, Ministry of Finance, Board for Industrial and Financial Reconstruction, New Delhi and the issue has been pending till date.

(iv) The Respondent has not received order regularly. The Respondent received orders from the customer in once in a three months in this situation the Respondent has orally stated to the all workers that the Respondent will pay the wages according to order receive by the Respondent meanwhile the Petitioners has change their behaviour and they stated to delay the works and the Respondent was not able to deliver the orders to customer in time due to that the Respondent has not receive the payment in time from the customers due to that Respondent got financial crisis and the Petitioner have realise the financial situation of the Respondent and they have not done the works in time and further that workers has not done the Annual Maintenance Contract (AMC).

(v) The Petitioners did not obey the Respondent words and further the Respondent has paid wages till January 2016 without any due. The Respondent

never stopped the wages to the workers at any point of time but, the Petitioners has falsely stated in the claim statement that the Respondent has not paid the wages to workers on October 2015 to January 2016.

(vi) There is no intention to close the factory because the Respondent has not receive the orders regularly therefore, the Respondent has orally stated to the all workers including the Petitioners that "No Work No Pay" has been followed by the Respondent in that major workers are quit the job and they given final settlement by the Respondent. Hence, prayed for dismissal of the claim petition.

#### 4. Point for determination:

1. Whether the reference has to be dismissed on the ground that the 11 workmen are represented by an unregistered Union?

2. Whether the lock-out done by the respondent management is an illegal lock-out?

3. Whether the dispute raised by petitioner union over non-payment of wages and illegal lock-out is justified?

4. To what reliefs the workmen are entitled for?

5. Mr. Vijayamaruthi, President of Union was examined as PW.1 and Exs. P1 to P18 were marked. On the Respondent side Mr. Charles Kuzhandai Raj, Store Incharge of Respondent Management was examined as RW.1 and through RW.1 Exs. R1 to Ex.R4 were marked.

#### 6. On points 1 to 4:

The contention of the petitioner union is that the eleven workmen were working in the respondent's company in various cadre for the past 10 years and while so from June 2015 onwards the respondent has not disbursed salary to the abovesaid workmen and further were taking steps to close the factory without following the procedure as contemplated under Industrial Disputes Act and thereby the same is nothing but, an illegal lock-out. The further contention of the petitioner union is that on 27-08-2015 the petitioners union had given representation to the Labour Officer (Conciliation) to intervene in the dispute and to take necessary action to disburse the salary and to stop illegal lock-out for which the respondent had given reply, dated 15-09-2015 stating that the respondent is unable to generate income without any production work and AMC service but, infact the same is not true because the workmen did not stop the work at any point of time and were doing the assignment work given to them inspite of non-payment of wages. The

petitioner's Union further contended that in the conciliation proceedings held on 29-09-2015, the Union had insisted for disbursement of salary from June 2015 to September 2015, but, still the respondent repeated the same reason and again on 16-10-2016 in the Conciliation proceedings the respondent stated that "no work no salary" and while so the abovesaid workmen did 20 and 25 KVA DG set but, the respondent had paid only 15 days salary for the month of October 2015.

7. The petitioner's further contention is that in the Conciliation proceedings held on 27-10-2015 the Labour Officer has directed the respondent to pay salary and bonus amount before Deepawali for which the respondent stated that only after 2 DG set of 1 X 125 KVA and 1X 24KVA are dispatched it is possible to pay the salary arrears and further in the Conciliation proceedings held on 11-01-2016 the workers demanded for 4 ½ months salary along with the salary for January 2016 and later when the respondent accepted to pay the salary arrears by way of 11 cheques, the petitioner union refused to receive the same since the earlier cheques issued by the respondent were bounced and further the respondent without settling the dues to the workmen had informed the workers to look for an alternative jobs and therefore, the present claim petition is filed for payment of arrears, wages and monetary reliefs for illegal lock-out.

8. On the other hand the respondent contended that the petitioner's union was not recognized by the respondent and further after January 2015 the respondent did not receive regular orders and therefore, the respondent followed "No work No pay" and paid wages as and when the respondent received the orders but, the employees became adamant and delayed the works due to which supply of products could not be made in time and further the respondent has paid wages till January 2016 through online and the respondent has no intention to close the factory.

9. Thus, in this case the first contention of the respondent is that the Petitioner Union is an unregistered one and not recognized by the respondent company and therefore, the petitioner Union has no *locus standi* to represent the 11 workmen and the case is liable to be dismissed on this ground. The learned Counsel for respondent to substantiate this contention has relied upon the following citations:

1. Indian Kanoon-<http://indiankanoon.org/doc/1639298>, dated 25-02-2008 of the Hon'ble High Court of Madras held that "In as much as the petitioner is not a registered body and the details of its members having not been disclosed, we are of the considered view that the present Writ Petition is not maintainable".

2. AIR 2001 Raj 35, of the Hon'ble High Court of Rajasthan held that "Since, the above conditions are not fulfilled such an unregistered association cannot file Writ Petition in respect of the legal rights of the said association for the alleged breach of fundamental right as the association itself has no fundamental right of its own".

10. The PW.1 during his cross-examination has deposed as follows:

Jeevan Diesel Electricals Limited தொழிலாளர் விடுதலை முன்னணி என்பது எங்கள் யூனியன் பெயராகும். மேற்படி. சங்கம் தற்போதைய தேதிவரை பதிவு செய்யப்படவில்லை. மேற்படி. சங்கத்தில் நான் தான் தலைவர். நான் அவ்வாறு தேர்ந்தெடுக்கப்பட்டதற்கான ஆவணத்தை இந்த வழக்கில் தாக்கல் செய்யவில்லை. இந்த வழக்கில் காணப்பட்டுள்ள 11 தொழிலாளர்களின் மேற்படி சங்கத்தில் உறுப்பினர்கள் என்பதை காட்ட ஆவணம் தாக்கல் செய்யவில்லை என்றால் சரிதான். மேற்படி 11 உறுப்பினர்கள் மாதச்சந்தா வசூல் செய்யப்பட்டுள்ளது என்பதை காட்ட ஆவணம் தாக்கல் செய்யவில்லை என்றால் சரிதான்.

11. Thus, the P.W.1 during his cross-examination has categorically admitted that the petitioner Union has not been registered and further, admitted that he has not produced any documents to substantiate that the 11 workmen involved in this case had paid subscription to the petitioner Union. Therefore, from the evidence of P.W.1 it is found that the petitioner Union is an unregistered one. According to section 2(qq) of Industrial Disputes Act "Trade Union" means a Trade Union registered under the Trade Unions Act 1926. Admittedly in this case the petitioner Union has not yet been registered as per section 2 (qq) of the Trade Union Act. In the said context it becomes necessary to determine whether this reference can be represented by the petitioner's Union on behalf of the 11 workmen and further, whether the reference has to be dismissed on the ground that the 11 workmen are represented by an unregistered Union. This Court at this juncture relies upon the following citations:

12. The question regarding maintainability of the reference, at the instance of unregistered Union, came up for consideration before the Hon'ble Supreme Court in State of Bihar *versus* Kripa Shankar Jaiswal, reported AIR 1961, Supreme Court (Vol. 1) 306 wherein it was held as follows:

"It would be an erroneous view if it were said that for a dispute to constitute an industrial dispute it is a requisite condition that it should be sponsored by a recognized Union or that all the workmen of an industrial establishment should be parties to it. A dispute becomes an industrial dispute even where

it is sponsored by a Union which is not registered as in the instant case or where the dispute raised by some of the workmen because in either case the matter falls within Ss 18(3)(a) and 18(13) (d) of the Act". The binding nature of an award or a settlement as contemplated under section 18 in clauses, *inter alia* all parties to the Industrial dispute that include all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

13. The Supreme Court in 1972 (I) LLJ 507 Pradip Lamp Works, Patna Vs. Workmen of Pradip Lamp Works, Patna and another has held that: "It cannot be said that merely because the dispute was not sponsored by the registered Union it was not an industrial dispute. Even though the new Union was not registered there was evidence to show that substantial number of workmen who are members of the new union espoused the dispute relating to the dismissal of ten workmen and that legal position is that espousal of a dispute before a reference is made even by a minority Union having a membership of substantial number of workmen is sufficient to make such a dispute an industrial dispute. It was therefore, held that the dispute espoused by the new unregistered Union was an Industrial Dispute that the reference was Competent.

14. The Hon'ble Supreme Court in Bharat Heavy Electricals Limited, Vs. All India Trade Union Congress (1979) has held that: "The fact that a Trade Union is not registered under the Trade Unions Act, 1926, does not disentitle it from raising an Industrial Dispute. The right to raise an Industrial Dispute is a fundamental right guaranteed by Article 191 (c) of the Constitution of India. The registration of a trade union is only a procedural requirement and does not confer any substantive right on the Trade Union".

15. The Hon'ble High Court of Kerala in Kerala State Electricity Board Vs. All Kerala Electricity Board Employees Union (2002) has held that: "The registration of a trade union is not a condition precedent for raising an Industrial Dispute. An unregistered Trade Union can also raise an Industrial Dispute".

16. Thus, in the light of above citations it is clear that a dispute espoused by a unregistered Union also constitutes to be a Industrial Dispute and therefore, it cannot be held that the reference of dispute at the instance of unregistered Union is invalid one and further, in Industrial Dispute cases it becomes necessary to determine whether there exists workman and employer relationship and whether the subject matter of reference is really an industrial dispute or not.

17. At this juncture for better appreciation it would be appropriate to extract section 2(k) and 2A of Industrial Disputes Act.

Section 2 (k) "industrial dispute" means any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

Section 2A-Dissmissal, *etc.*, of an individual workman to be deemed to be an industrial dispute:- Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination is deemed to be an industrial dispute notwithstanding that no other workman or any Union of workmen is a party to the dispute.

18. In this case from the claim statement filed by the petitioner Union and counter statement filed by the respondent and from the evidence of R.W.1 and from Exs. P7 series to P17 series it is found that the 11 workmen involved in this case have proved that there exists the relationship of employer and workmen and further there exists a dispute in the nature of "Industrial Dispute". When such being so in the light of above citations cited *supra*, the industrial dispute which is espoused by an unregistered Union and further the reference having made by the Labour Officer Conciliation being a valid one, this Court is bound to answer the reference.

19. The another contention of the respondent is that the 11 workmen in this case are represented by an unregistered Union and the same is unsustainable because the workmen can be represented only by the Office bearers of registered Trade Union. This Court finds that as per section 36 of Industrial Dispute Act the representation of a workmen can be done by:

Representation of Parties; (1) A workman who is a party to dispute shall be entitled to be represented in any proceeding under this Act by:

(a) any member of the executive or other office bearer of a registered Trade Union of which he is a member;

(b) any member of the executive or other office bearer of a federation of Trade Unions to which the Trade Union referred to in clause (a) is affiliated;

(c) Where the worker is not a member of any Trade Union, by any member of the executive or other office bearer of any Trade Union connected with, or by any other workman employed in, the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employed who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by-

(a) an officer of an association of employers of which he is a member;

(b) an officer of a federation of association of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act or in any proceedings before a Court.

(4) In any proceeding before a Labour Court, Tribunal or National Tribunal, a party to a dispute may be represented by a Legal Practitioner with the consent of the other parties to the proceedings and with the leave of the Labour Court, Tribunal or National Tribunal, as the case may be.

20. Therefore, as per section 36 (1)(c) of Industrial Disputes Act a workman can be represented by other office bearer of any Trade Union connected with or by any other workman employed in the industry in which the worker is employed. In this case the industrial dispute is represented by an office bearer of a Trade Union and furthermore, the dispute is espoused by an unregistered Union and this Court also has already held that the reference by the Labour Officer Conciliation is a valid one and therefore in such circumstances this Court is bound to answer the reference. Apart from that even otherwise the president of the petitioner Union is one of the workman employed in the same company where other 10 workmen are working. Therefore, even otherwise the president as one of the workman working in the same company is entitled to represent the other 10 workmen in this case.

21. That apart on perusal of Ex.P6 Failure report issued by the Labour Officer Conciliation it is found that the respondent at no point of time has raised before

the Labour Officer Conciliation that the petitioner Union is an unregistered or unrecognised one. Further more, when the P.W.1 has adduced evidence before this Court the respondent has not raised any objection that the P.W.1 has neither *locus standi* to represent the 11 workmen nor to adduce evidence on behalf of the 11 workmen but on the other hand has allowed to complete the cross examination by suggesting to P.W.1 that the petitioner Union is an unregistered one and therefore petitioner Union has no *locus standi* to represent the 11 workmen. Thus, it is found that the respondent for the first time during cross-examination of P.W.1 has raised objection by posing questions to the P.W.1 that the petitioner Union is an unregistered one and cannot represent the 11 workmen. This Court on taking into consideration of above discussions, holds that the objection raised by the respondent that the petitioner Union cannot represent the 11 workmen holds no water for the reasons as assigned above.

22. The other contention of the petitioner Union is that the 11 workmen were not paid salary from June 2015 and further the respondent was taking steps for temporary closure of factory and the same is nothing but, an illegal lock-out. Whereas, the contention of the respondent is that after January 2015 there were no regular orders and therefore, the respondent had followed "No work no pay" and had paid salary as and when the respondent received orders but, the workmen became adamant and started to delay the works and thereby the respondent was unable to deliver the products in time. The respondent further, contended that the respondent has paid salary upto October 2015 through online and there is no intention for the respondent to close the factory.

23. This Court on perusal of Ex. P2 finds that it is stated that the respondent company do not have any production and therefore, is closing one factory for time being and further has directed the security service not to allow the 11 workmen to enter inside the factory. Further, the respondent also in the counter statement has stated that the respondent after January 2015 did not receive any orders regularly from the customer and the R.W.1 during his cross-examination has deposed that he is still working as store-incharge in the respondent company and at present only two persons are working the respondent company. Therefore, from the above it can be inferred that the respondent has initiated temporary closure and the same is nothing, but, a lock-out as contended by the workmen. This Court finds that Industrial Disputes Act contemplates the procedure for lock-out but, in this case the respondent without adopting any such procedure is found to have prevented the entry of the workmen into

the factory and also has not provided employment and wages. The contention of the respondent that it was informed to the workmen that salary will be paid as and when the orders are received and further, the workmen have to wait for the work without any salary and till the respondent generate revenue by supplying the products is found to be unacceptable one.

24. Thus, in the said facts and circumstances the lock-out done by the respondent is nothing but an illegal lock-out. When that being so, the workmen are entitled for salary during the said periods. According to petitioner it is contended that the 11 workmen were not paid salary from June 2015 but during the pendency of Conciliation proceedings for the month of October 2015 was paid by the respondent. Whereas the respondent contends that salary upto January 2016 were made through online. The petitioner as per Ex. P18 has proved that they have been paid salary for the month of October and November 2015 but the respondent has not produced any documents to prove the payment of salary upto January 2016 as contended by the respondent. Hence, this Court holds that the respondent is liable to pay salary to the 11 workmen for the period from June 2015 on wards except for the month of October 2015 and November 2015 since the salary for the said months have been disbursed.

25. It is contention of the respondent that BIFR proceedings have been initiated as against the respondent company and to substantiate the same Ex.R1 is relied. On perusal of Ex.R1 it is found that on 17-07-2015 a letter is addressed by Registrar of Board for Industrial and Financial Reconstruction seeking for certain particulars from the respondent, but, however it is found that on 23-01-2019 the respondent has sold a part of its immovable property and therefore, the contention of the respondent that as against respondent factory BIFR proceedings were initiated is unacceptable one. In view of above discussions it is held that Industrial dispute raised by the petitioner as against the respondent management over illegal lock-out is justified and as such this Court holds that the 11 workmen are entitled for arrears of salary for the period from June 2015 onwards excluding the month of October 2015 and November 2015 since the salary for the said months have been disbursed.

In the result this petition is allowed by holding that the industrial dispute raised by the petitioner as against the respondent management over illegal lock-out is justified and the respondent management is directed to pay the arrears of salary for the period from June 2015 onwards excluding the month of October 2015 and November 2015 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 open Court on this the 13th day of September, 2023.

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

*List of petitioner's witness:*

PW.1 — 30-01-2020 Thiru Vijayamaruthi, President of Union.

*List of petitioner's exhibits:*

Ex.P1 — Photocopy of the letters sent by the applicants to the Labour Officer (Conciliation) (13 Nos.).

Ex.P2 — 29-08-2016 Photocopy of the letter sent by the Respondent to the Contractor Swasthik Security Services, Puducherry, regarding the subject of closure of Jeevan Diesels and Electricals Limited.

Ex.P3 — 29-03-2016 Photocopy of the letter sent by the Respondent to the Labour Officer (Conciliation).

Ex.P4 — 22-01-2016 Photocopy of the Complaint given by the EPF Officer, Puducherry to the Superintendent of Police (South), Mettupalayam, Puducherry.

Ex.P5 — 15-03-2017 Photocopy of the Notification, dated 15-03-2017 in G.O. Rt. No. 26/AIL/Lab./T/2017.

Ex.P6 — 31-10-2016 Photocopy of the Failure Report issued by the Labour Officer (Conciliation).

Ex.P7 — — Photocopy of the Service Series Records of S.Vijayamaruthi-Electrician (14 Sheets).

Ex.P8 — — Photocopy of the Service Series Records of D. Mullaivalavan-Wireman (10 Sheets).

Ex.P9 — — Photocopy of the Service Series Records of S. Gnanasekaran-Fitter (10 Sheets).

Ex.P10 — — Photocopy of the Service Series Records of L. Paul Ebanazar-Technician (10 Sheets).

Ex.P11 — — Photocopy of the Service Series Records of D. Velmurugan-Wireman (7 Sheets).

Ex.P12 — — Photocopy of the Service Series Records of E. Arul Raj-Store-Assistant (8 Sheets).

Ex.P13 — — Photocopy of the Service Series Records of P. Vengatachalapathy-Electrician (9 Sheets).

Ex.P14 — — Photocopy of the Service Series Records of S. Karthikeyan-Painter (11 Sheets).

Ex.P15 — — Photocopy of the Service Series Records of R. Rajasekar-Wireman (10 Sheets).

Ex.P16 — — Photocopy of the Service Series Records of J. Vasu-Fitter (12 Sheets).

Ex.P17 — — Photocopy of the Service Series Records of L. Lakshminarayanan-Electrician (3 Sheets).

Ex.P18 — — Photocopy of the Salary Series Records (7 Sheets).

*List of respondent's witness:*

RW1 — 28-02-2022 Mr. Charles Kuzhandai Raj, Store-Incharge of the Respondent Management.

*List of respondent's exhibits:*

Ex.R1 — 17-07-2015 Photocopy of the Notice sent by Ministry of Finance to the Respondent.

Ex.R2 — 03-03-2016 Photocopy of the Bank Payment Slip for the Employee.

Ex.R3 — 23-01-2019 Photocopy of the Sale Deed of the Respondent.

Ex.R4 — 03-02-2018 Authorization Letter issued by the Respondent Management.

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