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பொருளடக்கம்

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**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 126/AIL/Lab./T/2023,
Puducherry, dated 11th December 2023)

NOTIFICATION

Whereas, an Award in I.D (L) No. 35/2018, dated 06-07-2023 of the Labour Court, Puducherry, in respect of Dispute between the M/s. Lanson Motors Private Limited, Bahour, Puducherry and the Union workmen represented by United Labour Federation, Thambu Chetty Street, Chennai, over providing safety in supply of food to the workers in the working place/canteen 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. 35/2018
CNR. No. PYPY06-000072-2018**

The Secretary,
United Labour Federation,
No. 149, Thambu Chetty Street,
C.J. Complex, IV-Floor,
Chennai.

. . Petitioner

Versus

The Managing Director,
M/s. Lanson Motors Private Limited,
R.S.Nos. 53/1A and 53/3,
Kirumampakkam Village,
Bahour, Puducherry.

. . Respondent

This Industrial dispute coming on 06.07.2023 before me for final hearing in the presence of Thiru R. Vignesh, Counsel for the Petitioner, Thiruvalargal K. Babu and S. Karthikeyan, Counsels for the Respondent upon 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. 124/AIL/Lab./T/2018, dated 29-08-2018 of the Labour Department, Puducherry, to resolve the following dispute between the Petitioner and the Respondent, *viz.*,

(a) Whether the dispute raised by the Union workmen represented by United Labour Federation, Thambu Chetty Street, Chennai, against the Management of M/s. Lanson Motors Private Limited, Bahour, Puducherry, over providing safety in supply of food to the workers in the working place/canteen are 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. On perusal of case records it is found that this reference has been made with regard to dispute raised by Petitioner to provide safety in supply of food to the workers in the working place/canteen. The records reveals that the Petitioner and Respondent have filed claim stateiresit and counter statement respectively and the case stood posted for enquiry. It is at this stage the Petitioner has endorsed that he is withdrawing the ciam petition. Hence, on recording the same, this Court is inclined to dismiss this case.

In the result, the reference is disposed and the claim petition is dismissed as withdrawn. No costs.

Written and pronounced by me in open Court on this 6th day of July, 2023.

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

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 10/AIL/Lab./S/2024,
Puducherry, dated 24th January 2024)

NOTIFICATION

Whereas, an Award in I.D (L) No. 11/2018, dated 31-10-2023 of the Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. Larsen and Toubro Private Limited, Puducherry and Thiru T. Ramadassan, Kottakarai, Vanur Taluk, 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.

Tuesday, the 31st day of October, 2023

I.D. (L) No. 11/2018
CNR. No. PYPY06-000107-2018

T. Ramadassan,
Mariamman Koil Street,
Kottakarai, Bharathipuram,
Irumbai, Auroville Post,
Vanur Taluk, Tamil Nadu. . . Petitioner

Versus

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

This Industrial Dispute coming on 19-09-2023 before me for final hearing in the presence of Thiruvallargal P.R. Thiruneelakandan and A. Mithun Chakkaravarthy, Counsel for the Petitioner, Thiruvallargal M. Vaikunth, R. Vikneshraj and R. Elamparudhi, 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:

AWARD

This Industrial Dispute arises out of the reference made by the Government of Puducherry *vide* G.O. Rt. No. 22/AIL/Lab./T/2018, dated 13-02-2018 of the Labour Department, Puducherry, to resolve the following dispute between the Petitioner and the Respondent, *viz.*,

(a) Whether the dispute raised by the Petitioner T. Ramadassan, Mariamman Koil Street, Kottakarai, Bharathipuram, Irumbai, Auroville Post, Vanur Taluk, Tamil Nadu, against the Management of M/s. Larsen and Toubro Private Limited, situated at ECC Division

Mailam Road, Sedarapet, Puducherry, over refusal of employment are justifiable or not? If justified, what is the relief entitled to?

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

2. *The averments in the claim petition filed by the petitioner is as follows:*

The petitioner was appointed as an operator in the RRM section of Respondent Factory at Puducherry from the year 2005 onwards and received monthly salary directly from the respondent management with deduction of EPF and ESI subscriptions. The petitioner has also served as oil furnace operator, billet yard operator and also served in the production management section and quality control section. While, the Petitioner was in service on 28-10-2016, the respondent management without any reasonable cause and without assigning reason simply denied employment to the Petitioner. After denial of employment, the Petitioner approached the respondent in person and also sent letter through registered post requesting them to provide employment considering his poor family conditions but, the respondent did not heed to the request of the petitioner. The Petitioner aggrieved by the denial of employment, raised an industrial dispute before the Labour Officer (Conciliation), dated 16-03-2017. On receipt of the same the Conciliation Officer issued notice to the Petitioner and the respondent. The conciliation meeting was held on several hearing, but, the respondent management has chosen neither appear nor file any statement before the Conciliation Officer. Hence, the Conciliation Officer submitted the failure report, dated 02-01-2018. The denial of employment to the Petitioner without any reasonable cause and without any notice to the Petitioner is arbitrary, illegal and clear act of violation of principles of natural justice and violation of model Standing Order and it is clear act of unfair labour practice as enumerated in Schedule V part I clause (a), (b), (d), (f) and 16 of the Industrial Disputes Act,. Further, the denial of employment in violation of section 25(F) of the Industrial Disputes Act, which is illegal. At the time of termination the Petitioner was paid ₹ 9,100 as monthly wages and from the date of denial of employment the Petitioner has not been gainfully employed anywhere in any establishment. Hence, the Petitioner prays to hold that the denial of employment to the petitioner as illegal and direct the respondent management to reinstate the Petitioner into service with effect from 28-10-2016 with continuity of service with full back wages and all other attendant benefits.

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

The respondent company namely, Larsen and Toubro Limited is a Multi National Company, incorporated under the Companies Act, 1956, which is having factories in all over Union Territory in India as well other countries in the world. The respondent company is in the business of manufacturing of the transmission line tower component and its factory is situated at Mailam Road, Sedarapet, Puducherry. The opponent engages permanent employees' for attending to various manufacturing operation carried out in the factory. The factory is duly registered under the provisions of "The contract labour (Regulation and Abolition) Act, 1970 and Puducherry Rules made thereunder.

(ii) The respondent company is engaging several contractors for the purpose of carrying out various miscellaneous jobs in the company premises and in turn the contractors were engaging/employing their direct workmen for the purpose of fulfilling their contractual obligations at the premises of the company and the Licensing Authority, Puducherry, has also duly issued licenses in favour of several contractors under the provisions of contract Labour Act, 1970 and among them A. Selvam is one of Licensed Contractor. All the contract workmen deployed by the contractors are working under their direct supervision and control and apart from the capacity of Principal Employer, the opponent is not having any liability or obligation with the contract workmen including the present Petitioner.

(iii) The petitioner was employed by A. Selvam and obtaining the salary on monthly basis without any dispute/demur. Therefore, it is clear that the Petitioner was employed under the Supervision and control of the contractor and further, the master and servant relationship exist between the aforesaid contractor and the Petitioner and it is he who denied employment to the Petitioner and the respondent does not have any role in it.

(iv) Therefore, the Petitioner has to implead licensed contractor A. Selvam as necessary party in this dispute and should ask for relief only against him but, the Petitioner raised the above dispute conveniently without impleading the contractor. Hence, the dispute is liable to dismissed for non-joinder of necessary party. The responsibility of covering all contract employees, including the Petitioner under the provisions of various beneficial legislations such as EPF and MIS Act, 1952, ESI Act, 1947 lies with the respondent management as

otherwise the respondent management is liable to face criminal prosecution by the respective Departments for not covering them under those beneficial legislations and therefore, the Petitioner was covered under EPF and MIS Act, 1952 and ESI Act, 1947 by the respondent company. Therefore, just because he was covered under EPF and MIS Act, 1952 and ESI Act 1947 by the respondent company it will not confer any right on the contract labourers, including petitioner to claim permanent status on par with regular employees those, who were directly appointed by the respondent company after due selection. Hence, prays for dismissal of the claim petition.

4. *Points for determination:*

(1) Whether the Petitioner is a workman of respondent?

(2) Whether the Petitioner is a contract labour of respondent?

(3) Whether the relationship of employer and employee exists only between the contractor A. Selvam and Petitioner?

(4) Whether the denial of employment by the respondent is illegal?

(5) Whether the dispute raised by Petitioner over his non employment is justified?

(6) To what other reliefs the Petitioner is entitled for?

5. Mr. Ramadasan was examined as P.W.1 and Exs.P1 to P17 were marked and through cross examination of P.W.1 Ex.R1 was marked. On the Respondent side Mr. Kannan, Manager, IR and Adminstration of the Respondent Management was examined as R.W.1 and no exhibits were marked through him.

6. *On points 1 to 6:*

The contention of the Petitioner is that he was appointed in the respondent company as operator in RRM section in the year 2005 and was receiving wages from the respondent company after deduction of EPF and ESI subscriptions and further the petitioner had worked as oil furnace operator, billet yard operator and also worked in the production management section and quality control section and thereby was continuously working in respondent company and while so, on 28-10-2016 the respondent without any reasonable cause and without assigning any reason has denied employment to the Petitioner. The further contention of the petitioner is that the

petitioner subsequently approached the respondent on several occasions requesting to provide employment but, the respondent did not heed to the request of petitioner and therefore the petitioner has raised Industrial Dispute before Labour Officer (Conciliation) and thereafter, as the dispute could not be resolved the dispute has been referred to this Court. In this case it is the specific contention of the petitioner that at the time of termination the petitioner was receiving a sum of ₹ 9,100 as monthly wages from the respondent company and further, the denial of employment by the respondent is nothing but an unfair labour practice and violation of section 25(F) of Industrial Dispute Act.

7. *Per contra*, the respondent contends that the respondent company had engaged several contractors for the purpose of carrying out various miscellaneous jobs and in turn the contractors were employing their workmen for fulfilling the contractual obligations to the respondent company and further, all the contract workmen deployed by the contractors were working under the direct supervision and control of the contractors and the respondent being a principal employer has no any obligation towards the contract workmen. The further contention of the respondent is that the petitioner is one such contract workmen employed by one of its contractor by name A. Selvam who is a licensed contractor of respondent company and further the Licensing Officer, Pondicherry, has issued licence to the said A. Selvam and therefore the master and the servant relationship exists only between the said contractor and the petitioner and therefore, in such context employment of petitioner with the respondent does not arise at all and it is the said contractor who has denied employment to the petitioner for which the respondent is not liable. The yet another contention of the respondent is that to avoid criminal prosecution and to cover the petitioner under beneficial legislation it was the responsibility of the respondent to cover all contract employees including the petitioner under EPF and ESI Act and therefore, EPF and ESI were deducted from the wages of the petitioner and the same does not confer any right upon the petitioner to claim permanent status on par with regular employees and therefore, the petitioner is not entitled for any relief as claimed in the claim petition.

8. This Court, from the contentions raised by the petitioner and respondent, finds that it is the specific case of the petitioner that he was appointed in the respondent company in the year 2005 as an operator and was receiving wages from the respondent and thereafter, was working in the respondent company till he was denied employment on 28-10-2016 and therefore,

the denial of employment by the respondent is illegal and hence seeks for the relief of reinstatement with all attendant benefits and whereas the contention of the respondent is that the petitioner was a contract workman employed by one A. Selvam, who is a licensed contractor of the respondent company and therefore, there does not exist any employer and employee relationship between the respondent and petitioner, and when such being so, the petitioner is not liable to seek any relief of reinstatement from the respondent company.

9. The petitioner during his cross-examination as P.W.1 has deposed the respondent company has not issued any Appointment Order in favour of the petitioner and further deposed that he was not appointed directly by the respondent company but on the other hand the petitioner had joined in the respondent company through one Natarajan, who was working as a Supervisor in the respondent company. Thus, from the evidence of P.W.1 it could be inferred that there is no any appointment order issued by the respondent company in favour of the petitioner. However, the petitioner to substantiate that he had worked in respondent company has produced Ex.P3 which is a merit certificate issued by the respondent during the month of May 2009 in favour of the petitioner. The R.W.1 during his cross-examination admitted that Ex.P3 is a Merit certificate issued by the respondent company in favour of the petitioner and further deposed that CL-RM (PRODN) as mentioned in Ex.P3 denotes that the petitioner was working in production department as contract labourer Rolling Mill and further deposed that as per Ex.P4, the respondent has deducted PF subscription for the year 2009 to 2010. Therefore, this Court from the Exs.P3 and P4 and from the evidence of P.W.1 and R.W.1 finds that the petitioner has substantiated that he had been working in the respondent company during the year 2009. However, it is the specific case of the petitioner that he was working in the respondent company from the year 2005 but, the petitioner has not produced any documents to substantiate the same. Hence, this Court on considering the above discussions concludes that the petitioner has proved that during the year 2009 he had been working in the respondent company.

10. The another contention of the petitioner is that he had been working in the respondent company till he was denied employment on 28-10-2016. The respondent has produced Ex.R1 through cross-examination of P.W.1. On perusal of Ex.R1 it is stated as Register of wages for the month from May 2016 to October 2016. Thus, even as per the respondent case it is found that the respondent has admitted that the petitioner was

working in the respondent company during the month of October 2016 but, the only contention is that the petitioner was working as contract labour under one contractor by name A. Selvam. Therefore, this Court finds that the petitioner has proved his contention that he had been working in the respondent company till 27-10-2016.

11. This Court finds that when the petitioner has proved that he had been working in the respondent company till 27-10-2016 then, it is for the respondent company to prove its contention as contended in the counter that the petitioner was only a contract workman employed by the licensed contractor of respondent company. This Court further finds that when the plea of contract labour is raised then the Contract Labour (Regulation and Abolition) Act, 1970 comes into play and it is for the respondent company to prove that the establishment was registered as per section 7 of Contract Labour (Regulation and Abolition) Act, 1970 and further the alleged contractor was issued licence by the Licensing Officer as per section 13 of Contract Labour (Regulation and Abolition) Act, 1970 and further there was a contract entered between the licensed contractor and the respondent company agreeing to deploy contract labours to the respondent company.

12. In this case though the respondent in the counter has stated that the Licensing Officer, Pondicherry has issued licence to the contractor A. Selvam but, the respondent has not produced any licence that stands in favour of said A. Selvam. Furthermore, the R.W.1 during his cross-examination has deposed and admitted that the respondent company has not produced any contract entered between the respondent company and A. Selvam and also has not produced any contract extension document entered between the respondent and A. Selvam and likewise has not produced any document to substantiate that there was money transaction between the respondent company and A. Selvam. On the other hand, the respondent company has produced Ex.R1 in which it is stated as register of wages for the month of May 2016 to October 2016.

13. Though the petitioner during his cross-examination has admitted that the signature as found in Ex.R1 is that of his signature but this Court finds that when the respondent company contends that the petitioner is a contract workman of one A. Selvam and the said A. Selvam is a licensed contractor of the respondent company then it is for the respondent company to prove the same by production of licence issued by the Licensing Officer in favour of said A. Selvam and also by production of contract entered between the

A. Selvam and respondent company with regard to the deployment of contract workmen by the contractor to the respondent company but, in this case none of the said document is produced by the respondent. Moreover the respondent has also not produced any document to prove the transaction that had taken place between A. Selvam and respondent company towards the settlement of wages to the contract labours deployed by the said A. Selvam. Apart from that in Ex.R1 though a seal of A. Selvam, Contractor is available but, the licence number of the said contractor is not available and the same is admitted by R.W.1 during his cross-examination. Thus, this Court finds that the respondent has miserably failed to prove that one A. Selvam is the contractor of respondent company and the petitioner is a contract workman under direct supervision and control of said A. Selvam and further has deployed the petitioner to the respondent company.

14. Furthermore, it is admitted by R.W.1 that the petitioner was working in production department and more particularly in the Rolling Mill division. The R.W.1 during his cross-examination has deposed that the work nature of petitioner was one of unskilled nature and denied that the working nature of petitioner was a skilled one but from the evidences of P.W.1 and R.W.1 this court finds that the petitioner was working in the production department in the Rolling Mill division and therefore, the nature of work carried by the petitioner amounts to Core activity and of perennial nature. When such being so, the Contract Labour (Regulation and Abolition Act) 1970 prevents the principal employer from engaging a contract labour to do the core activity of the establishment. Hence, in the said discussions, this Court holds that the petitioner has to be treated as workman directly employed by the principal employer of the establishment that is by the respondent company and thereby there exists master and servant relationship between the petitioner and respondent and hence, in the said context the denial of employment by the respondent amounts to unfair labour practice and illegal one. Thus, in view of above discussions, this Court holds that the 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.

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 with effect from 28-10-2016 with full back wages and other attendant benefits within two months from the date of this Award. There is no order as to costs.

Dictated to the Stenographer, transcribed by him, corrected and pronounced by me in open Court on this the 31st day of October, 2023.

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

List of petitioner's witness:

PW.1 — 13-07-2022 Thiru Ramadasan

List of petitioner's exhibits:

- Ex.P1 — — Photocopy of the Petitioner's ESI Identity Card.
- Ex.P2 — 20-02-2014 Photocopy of the Certificate issued by the ESI to the Petitioner.
- Ex.P3 — 2009 Photocopy of the Merit Certificate issued by the Respondent to the Petitioner.
- Ex.P4 — 06-07-2010 Photocopy of the EPF Annual Contribution of the Petitioner.
- Ex.P5 — 12-08-2016 Photocopy of the Petitioner's shift punch time.
- Ex.P6 — 08-07-2015 Photocopy of the Material Requisition Slip.
- Ex.P7 — 03-05-2016 Photocopy of the Material Requisition Slip.
- Ex.P8 — 10-07-2016 Photocopy of the Material Requisition Slip.
- Ex.P9 — — Photocopy of the Furnace Oil Inspection Report.
- Ex.P10 — — Photocopy of the Furnace Oil Inspection Report.
- Ex.P11 — — Photocopy of the Product Inspection Report.
- Ex.P12 — — Photocopy of the Product Inspection Report.
- Ex.P13 — — Photocopy of the Product Inspection Report.
- Ex.P14 — 16-03-2017 Photocopy of the letter sent by the Petitioner to the Respondent Management with postal receipt as unclaimed.

Ex.P15 — 06-04-2017 Photocopy of the letter sent by the Petitioner to the H.R., Assistant Manager of the Respondent Management with postal receipt as unclaimed.

Ex.P16 — 06-09-2017 Photocopy of the Notice of enquiry/conciliation.

Ex.P17 — 02-01-2018 Photocopy of the Conciliation Failure Report.

List of respondent's witness:

RW 1 — 28-10-2022 Mr. Kannan, Manager, IR and Admin. of the Respondent Management.

List of respondent's exhibits:

Ex.R1 — Photocopy of the Register of Wages for the month of May, 2016.

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

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 06/Lab./AIL/S/2023,
Puducherry, dated 10th January 2024)

NOTIFICATION

Whereas, the Government is of the opinion that an industrial dispute has arisen between the management of M/s. MRF Limited, Puducherry and Thiru G. Gnanavel, over his non-employment along with all other attendant benefits in respect of the matter mentioned in the Annexure to this order;

And whereas, in the opinion of the Government, it is necessary to refer the said dispute for adjudication;

Now, therefore, by virtue of the authority delegated *vide* G.O. Ms. No. 20/9/Lab./L, dated 23-5-1991 of the Labour Department, Puducherry, to exercise the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), it is hereby directed by the Secretary to Government (Labour) that the said dispute be referred to the Labour Court, Puducherry, for adjudication. The Labour Court, Puducherry, shall submit the Award within 3 months from the date of issue of reference as stipulated under sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947 and in accordance with