

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 18590 of 2012 (W)

PETITIONER(S):

**HDFC BANK EMPLOYEES UNION,
REPRESENTED BY ITS GENERAL SECRETARY SS PILLAI,
SON OF SHANMUGHAN PILLAI, NARAYANA SMRITHI BUILDINGS
PERUVARAM ROAD, NORTH PARUR-683 513.**

**BY ADVS.SRI.B.ASHOK SHENOY
SMT.C.G.PREETHA
SRI.THOMAS P.MAKIL
SRI.K.V.GEORGE**

RESPONDENT(S):

- 1. THE ASSISTANT LABOUR COMMISSIONER (CENTRAL),
OFFICE OF THE ASSISTANT LABOUR,
COMMISSIONER (CENTRAL), UPPALAM ROAD,
THIRUVANANTHAPURAM-695 001.**
- 2. HDFC BANK LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
HDFC BANK HOUSE, SENAPATHI BAPAT MARG,
LOWER PAREL (WEST) MUMBAI-400 013.**

**R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 BY ADV. SRI.T.RAJESH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 18590 of 2012 (W)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1:TRUE COPY OF SETTLEMENT DATED 9-4-2010 ENTERED INTO BETWEEN THE
PETITIONER AND MANAGEMENT OF 2ND RESPONDENT.**

**EXT.P2:TRUE COPY OF REPRESENTATION DATED 3-11-2011 SUBMITTED BY THE
PETITIONER TO REGIONAL LABOUR COMMISSIONER (CENTRAL) KOCHI.**

**EXT.P3:TRUE COPY OF MINUTES OF THE MEETING HELD ON 26-3-2012 BEFORE
1ST RESPONDENT UNDER FILE NO. 07(II) 2011/ALC/TVM, AS BETWEEN
PETITIONER AND 2ND RESPONDENT**

**EXT.P4: TRUE COPY OF REPRESENTATION DATED 12-4-2012 SUBMITTED BY THE
PETITIONER TO 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.M. SHAFFIQUE, J.

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W.P. (C) No. 18590 of 2012

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Dated this, the 16th day of September, 2015

J U D G M E N T

This writ petition has been filed *inter alia* seeking the following relief:

“(a) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding 1st respondent to initiate action in terms of Section 34 of Industrial Disputes Act, 1947 to prosecute 2nd respondent over the offence punishable under Section 25U of the said Act being committed by them by non-implementation of the agreement in Exhibit P3, either by making a complaint or issuing authorizatioin in favour of petitioner for institution of complaint thereunder.”

2. Petitioner is a registered trade union of workmen employed in the 2nd respondent Bank. They entered into settlement dated 9/4/2010 with the management of the 2nd respondent, which is produced as Ext.P1. It is contended that contrary to the terms of settlement, in two branches of the 2nd respondent, the works were not being allotted to clerical workmen. Petitioner therefore submitted representation dated 3/11/2011 to the Regional Labour Commissioner, Kochi. The 1st respondent convened a conciliation meeting in the course of

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which the 2nd respondent agreed to the demand of the petitioner and further agreed to entrust the duty of maintaining inward and outward registers at Alappuzha and Changanacherry branches of the Bank to the Bank's staff. The said agreement was recorded in the minutes, which is produced as Ext.P3 and the said dispute was treated as closed on 26/3/2012. It is stated that despite the said agreement, Alappuzha and Changanacherry branches of the 2nd respondent violated the terms of agreement, which according to the petitioner is an offence punishable under the Industrial Disputes Act, 1947. Ext.P4 representation was given to the 1st respondent to take appropriate action to ensure implementation of Ext.P3. But since no action had been taken in the matter, this writ petition has been filed.

3. A statement has been filed on behalf of the 1st respondent *inter alia* stating that they did not take any action pursuant to Ext.P3 since the office of the 1st respondent was lying vacant and they are ready and willing to take appropriate action with reference to Ext.P3.

Having regard to the aforesaid factual situation arising in the case, I am of the view that the writ petition can be disposed of

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directing the 1st respondent to consider Ext.P4 and after hearing either parties, take an appropriate decision in the matter in accordance with the procedure prescribed. This shall be done within a period of two months from the date of receipt of a copy of this judgment.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

16/09/2015

//True Copy//

PS to Judge