

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 6613 of 2014
Date of Decision: 10.3.2016.**

Piccadily Agro Industries Limited

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. D.S.Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate
for the petitioner.

Mr. Raj Kumar Makkad, DAG, Haryana.

Mr. P.K.Mutneja, Advocate
for respondents No. 5 to 16.

SABINA, J.

Petitioner has filed this petition under Article 226 of Constitution of India seeking a writ in nature of certiorari challenging the order dated 23.5.2013 (Annexure P-4) whereby the appropriate Government referred the dispute to the Industrial Tribunal.

Learned senior counsel for the petitioner has submitted that the workmen had approached this Court by filing CWP No. 10229 of 2011 seeking a direction to the management to fix their service conditions including all aspects of their employment *vis-a-vis* wages and other benefits on the pattern of wages and service conditions being provided to workers of Co-operative Sugar Mills in the State of Haryana. The said writ petition was disposed

of by this Court vide order Annexure P-3. In terms of Annexure P-3, Conciliation Officer was required to hold conciliation proceedings as per Section 12 of the Industrial Disputes Act, 1947 ('Act' for short). However, in the present case, the appropriate Government has referred the dispute for adjudication to the Industrial Tribunal without holding conciliation proceedings.

Learned State counsel, on the other hand, has opposed the petition and has submitted that the appropriate Government was of the opinion that there existed an industrial dispute and, consequently, has referred the same for adjudication to the Industrial Tribunal.

Learned counsel for respondents No. 5 to 16 has also opposed the petition and has submitted that the dispute raised by the workmen could only be decided by the Industrial Tribunal and the appropriate Government has rightly referred the dispute for adjudication to the Industrial Tribunal.

Admittedly, respondents No. 5 to 16 had earlier filed CWP No. 10229 of 2011 seeking a direction to the respondent management to fix their service conditions including all aspects of their employment *vis-a-vis* wages and other benefits on the pattern of wages and service conditions being provided to workers of Co-operative Sugar Mills in the State of Haryana.

Annexure P-2 is the written statement filed by the State in the said writ petition. The relevant paragraph of the short reply filed by the State reads as under:-

"The answering respondents may take any action in respect of any demands of the workers of private sugar mills if some charter of demands is served by the workers

to the conciliation officer of the area under the Industrial Disputes Act, 1947. In that case also the conciliation machinery is not competent to bind the management to accept the demands and in the event of failure on the part of the private management for accepting the demands of the workers, the appropriate Government in the Labour Department can only refer such demands to the Industrial Tribunal-cum-Labour Court for adjudication. However, no such charter of demands has been served by the petitioners. In the absence of the same, the petitioners cannot ask for any relief against the answering respondent for proceeding under Section 12 of the Industrial Disputes Act, 1947.”

The writ petition was disposed of by this Court vide order dated 3.4.2013 (Annexure P-3). The said order reads as under:-

“Learned counsel for the petitioners states that the petitioners, at this stage, would be satisfied if this petition may be treated as demand notice/representation under Section 12 of the Industrial Disputes Act, 1947 and a direction may be issued to the State Government that the same be examined, in accordance with law.

This writ petition is disposed of with a direction to the State Government to consider and decide the issues raised in this petition within a time bound manner preferably within three months.

Disposed of with above directions.”

Thus, the request of the learned counsel for the workmen was accepted by this Court that the petition be treated as demand notice/representation under Section 12 of the Act and the State Government may examine the same.

Section 12 of the Act reads as under:-

Duties of conciliation officers.-

(1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate Government (or an officer authorised in this behalf by the appropriate Government) together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the

investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in subsection (4), the appropriate Government is satisfied that there is a case for reference to a Board, (Labour Court, Tribunal or National Tribunal,) it may make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

[Provided that, (subject to the approval of the conciliation officer,) the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.]

Thus, as per the above provision, the Conciliation Officer shall hold conciliation proceedings where it is of the opinion that any industrial dispute exists or is apprehended and shall do all such things for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute. In case no such

settlement is arrived at, the Conciliation Officer shall send the report to the appropriate Government setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and reasons on account of which in his opinion settlement could not be arrived at. On considering the report submitted by the Conciliation Officer under sub-section 4 of the Act, the appropriate Government if satisfied shall make reference of the dispute to the Labour Court, Tribunal or National Tribunal.

In the present case, admittedly, the Conciliation Officer had not held conciliation proceedings as per Section 12 of the Act. Rather the dispute has been referred to the Industrial Tribunal without making efforts for amicable settlement between the parties by the Conciliation Officer. Hence, it is evident that the order passed by this Court dated 3.4.2013 (Annexure P-3) has not been followed in its letter and spirit. The grievance of the petitioner is that about 400 odd workers are working under the petitioner and conciliation proceedings were very necessary to be carried out in the present case as it would effect the other workmen also who are not party to the dispute raised by respondents No. 5 to 16.

Accordingly, this petition is allowed. Impugned order dated 23.5.2013 (Annexure P-4) is set aside. The Government is directed to pass an appropriate order after complying with the provisions under Section 12 of the Act.

**(SABINA)
JUDGE**

March 10, 2016
Gurpreet