

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

L.P.A. No.775 of 2016 (O&M)

Decided on : 20.07.2017

Om Parkash and others

... Appellants

Versus

State of Haryana and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr. Pawan Kumar Mutneja, Advocate,
for the appellants.
Mr. Samarth Sagar, Addl. AG., Haryana

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned
Single Judge dated 10.3.2016.

On an earlier occasion, the petitioners filed a Civil Writ
Petition which was disposed of on 3.4.2013 after noticing the prayer of
the petitioners that the writ petition be treated as demand
notice/representation under Section 12 of the Industrial Disputes Act,
1947 (in short, “the Act”) and a direction be issued to the State
Government to examine the same in accordance with law.

The writ Court answered exactly what the appellants
desired. For the purpose of reference, operative part of the impugned
order is reproduced below : -

“ 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.”

Section 12 of the Industrial Disputes Act is also extracted hereinbelow : -

“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 authorized 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 sub-section (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.]”

Instead of entering upon the conciliation proceedings, the State Government referred the dispute under Section 10(1)(C) of the Act to the Labour Court whereupon the management approached this Court by way of CWP No.6613 of 2014 questioning the reference in the absence of the execution of the earlier mandate of the writ Court where Section 12 proceedings were entered upon.

Learned counsel for the appellants contends that once reference under Section 10 of the Act has been made, it cannot be termed to be bad merely because the conciliation proceedings have not entered upon. In this regard, he draws our attention to the judgment of the Hon'ble Supreme Court in **M/s Western India Match Co. Limited**

v. The Western India Match Co. Workers Union and others; 1970

(1) SCC 225. There would be no dispute of this proposition. Indeed, once a reference has been made, it was open to the Labour Court to examine the same and arrive at a conclusion but the fact remains that the appellants themselves bound themselves to the proceedings under Section 12 of the Act by expressing their satisfaction before the writ Court in terms of the order which we have extracted hereinabove.

In this view of the matter, the approach of the learned Single Judge mandating proceedings under Section 12 of the Act cannot be termed to be erroneous or illegal so as to warrant any interference, therefore, the appeal is dismissed. However, the statutory remedies available to the appellants for claiming reference would not be effected merely because the earlier one had been negated by the learned Single Judge. It would be appropriate in the fitness of things if the conciliation proceedings are concluded as expeditiously as possible, preferably within a period of 3 months from the date of receipt of a certified copy of this order and thereafter, if the State desires to refer the matter under Section 10 of the Act, it shall commence from the stage they were pending prior to this so as to save the precious time of the litigants.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

July 20, 2017

Paritosh Kumar

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No