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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 477/2018 & CM. No. 34177/2018

MILITARY FARM NON GAZETTE

EMPLOYEES

..... Appellant

Through: Dr. Nandoo Yadav, (General
Secretary) representative for the
appellant.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Amit Mahajan, CGSC for UOI

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **10.12.2018**

Challenging an order passed on August 17, 2018 in pending W.P. (C) 9380/2017 rejecting an application being CM No.32985/2018 with regard to early hearing of the writ petition, this LPA has been filed under Section 10 of the Letters Patent. The appellant is a Union of Employees / Workers registered under the Trade Union Act, representing Employees / Workers working in Military Farms throughout the country had filed the writ petition and it was their grievance in the writ petition that the Military Farms have been closed down by an order passed on July 20, 2017 and while doing so, the statutory requirement pertaining to closure, retrenchment etc. as contemplated under the Industrial Disputes Act, 1947 has not been complied

with and therefore, the closure being illegal, relief be granted to the employees.

It is seen that the learned Single Judge framed a question of law to be considered on November 13, 2017 to the extent as to whether the Military Farms falls within the definition of industrial establishment and whether the petitioners therein, are workmen covered under Industrial Disputes Act, 1947 and the writ Court has the jurisdiction to deal with the matter.

The grievance of the appellant is that instead of considering the aforesaid issue and deciding the writ petition, the matter was adjourned and now the matter is listed on 29th April, 2019 and if ultimately the appellants are relegated to take recourse to the remedy available under the Industrial Disputes Act, it may cause undue delay and hardships to the workmen / employees, whose cases are being represented by the appellant Trade Union.

During the course of hearing held on the last date while exploring the possibility of issuing the directions to the appellant to take recourse to remedy available under the Industrial Disputes Act, 1947, we were informed that the appellant Union represents employees working in more than 39 farms spread throughout the country and it would be very difficult for the appellant to raise industrial disputes before the appropriate Government

where each of the 39 farms are situated. Accordingly, we had requested learned counsel representing the Union of India to explore the possibility as to whether a Conciliation Officer for dealing with the issue together at one place can be constituted, in view of the powers available to the appropriate Government under the Industrial Disputes Act. Today we are informed that the appropriate Government, namely the Ministry of Labour and Employment has issued an order on December 05, 2018 with reference to this particular case, appointing the Deputy Chief Labour Commissioner (C) Headquarter, at New Delhi as the Conciliation Officer, to deal with the disputes in question pertaining to employees of 39 Military Farms spread throughout the country as a Conciliation Officer. That being so, now a Conciliation Officer as contemplated under the Industrial Disputes Act, 1947 has been constituted by the appropriate Government to deal with the industrial dispute in question and that being the position, the matter should now proceed before the Conciliation Officer, who has to hold conciliation proceedings in the matter in accordance with law. Resultantly, thereafter, further action by the appropriate Government, either to enforce a settlement if arrived at or for reference of the dispute to an appropriate Tribunal, has to be considered.

At this stage, the appellant represented by Dr. Nandoo Yadav submits that he represents Employees / Workers of all the 39 Military Farms spread throughout the country and is the authorised representative for them. He argues that as the dispute pertains to 39 Military Farms spread throughout the country, a National Tribunal as contemplated under Section 7B of the Industrial Disputes Act, 1947 should be constituted. We are of the considered view that in this appeal, at this stage, the question of constitution of a National Tribunal is not required to be considered. At this stage, this Court is only required to refer the matter to the Conciliation Officer with a direction to proceed in accordance with law, hold the conciliation proceedings, and based on the report submitted by the Conciliation Officer, it is for the appropriate Government to take the decision either for referring the dispute to a National Tribunal / Tribunal as the case may be or otherwise if the settlement arrived at, to enforce the said settlement in accordance with law. That being so, and considering all these factors, we dispose of the appeal in the following manner.

The dispute in question, as canvassed in the petition, the writ petition be treated as a dispute raised by the appellant Union, it be placed before the Conciliation Officer appointed by the Ministry of Labour and Employment

vide their order dated December 05, 2018. The Conciliation Officer shall register the Industrial Dispute and proceed to hold conciliation in accordance with law and conclude the same after hearing all concerned within a period of 30 days of its registration and thereafter submit a report to the appropriate Government in accordance with law, as per the requirement of Section 11 read with Section 12 of the Industrial Disputes Act. Based on the report submitted by the Conciliation Officer, the appropriate Government shall take a decision with regard to the reference of the matter to an appropriate Tribunal or otherwise and pass a speaking order in accordance with law.

Needless to emphasize, all legal questions involved in the matter, as to whether the establishment in question is an industrial establishment defined under Section 2(j), whether the employees are workmen within the definition of Section 2(s) are left open to be considered by the Conciliation Officer, appropriate Government or by the appropriate Tribunal in case a reference is made.

We direct the appropriate Government to ensure that the conciliation proceedings are concluded within a period of 30 days from the date of registration of the dispute and thereafter decision is taken on the report

submitted by the Conciliation Officer within 15 days of its receipt.

Needless to state, if still aggrieved by any action, parties are at liberty to agitate the same in accordance with law.

In view of the aforesaid, the W.P. (C) 9380/2017 and LPA 477/2018 and CM. No. 34177/2018 stand disposed of.

Dasti under the Signatures of the Court Master.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 10, 2018/aky