

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.36727 of 2016
and
W.M.P.No.31565 of 2016

M/s.Nittsu Logistics (India) Private Limited,
Rep., by its Authorised Signatory,
Mr.P.K.Diwakar,
Having Office at No.554-555,
Chaitanya Capitale, 8th Floor (8-B),
Anna Salai, Tyenampet,
Chennai-600 018.

... Petitioner

-vs-

1.The Assistant Commissioner of Labour
(Conciliation)-I,
Sipcot Office Complex,
Irungatukottai, Sriperambadthur Taluk
Kancheepuram District-602 117.

2.M/s.Aarkays Consultants,
Having its registered Office at
75/4, II Floor, First Avenue,
Ashok Nagar, Chennai-600 083.

3.Chengai Anna District Democratic Labour Union,
Registration No.1062/CPT (Annexed to AICTU),
4/172, National Highway,
Otteri, Vandalur, Chennai-600 048.

.. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Mandamus directing the 1st
respondent to pass orders on merits on the application dated
03.10.2016 filed by the petitioner seeking for permission to
engage an advocate to represent the petitioner in the
conciliation proceedings in Na.Ka.No.A/600/2016 pending before
the 1st respondent.

For Petitioner : Mr..R.R.Arun Natarajan

For Respondents: R1 - Mr.J.Ramesh,
Additional Government Pleader

: R2 - Mr.S.Ravindran, Senior Counsel
For Mr.S.Bazeer Ahamed

: R3 - Mr.K.Bharathi

ORDER

The relief sought for in the present writ petition is for a direction to direct the 1st respondent to pass orders on the application dated 03.10.2016, filed by the writ petitioner seeking to engage an advocate to represent the petitioner in the conciliation proceedings in Na.Ka.No.A/600/2016 pending before the 1st respondent.

2.The petitioner states that they filed an application on 03.10.2016 under Section 36(4) of the Industrial Disputes Act, 1947 before the 1st respondent, Assistant Commissioner of Labour (Conciliation)-I, in the conciliation proceedings seeking his permission to engage an advocate to represent them. However, the 1st refused to receive the application filed by the petitioner. Thus, the petitioner is constrained to move the present writ petition.

3.Conciliation proceedings is to be conducted by the Labour Officers concerned in order to resolve the disputes or issues between the Management and the employees concerned. It is more or less a dialogue, which is to be entertained by the Labour Officer for the mutual understanding of the issues and to resolve the same amicably. In other words, the very idea of conciliation is to maintain the industrial peace so as to redress the grievances of the working class also. Under these circumstances, engagement of a lawyer, if necessary and if the rule permits, then alone the Assistant Commissioner may consider and not otherwise.

4.Engagement of an advocate may not be permissible in all circumstances in all proceedings. Therefore, such an engagement or a request is made in this regard, the authorities competent must ensure that such engagement is permitted in accordance with law or such a benefit is granted to all the parties concerned to put forth their grievances or pleadings. Under these circumstances, the Assistant Commissioner cannot permit the Management alone to engage an Advocate. In such an event, an

embarrassment will be created and the very purpose and object of the conciliation proceedings would be defeated. Further, the application in this regard was filed on 03.10.2016 and now, after this length of time, the relief sought for as such in this writ petitioner deserves no merit consideration. Even otherwise also, the writ petitioner Management is entitled to participate in the conciliation proceedings through their authorised representative or officials concerned.

5.The above being the factum, this Court is not inclined to consider the request of the writ petitioner for engagement of a lawyer in a conciliation proceedings. Thus, the relief is also unacceptable.

6.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(abr)

To

The Assistant Commissioner of Labour
(Conciliation)-I,
Sipcot Office Complex,
Irungatukottai, Sriperambadthur Taluk
Kancheepuram District-602 117.

+1cc to Mr.R.R.Arun Natarajan, Advocate Sr.96941
+1cc to Mr.S.Bazeer Ahamed, Advocate Sr.96800
+1cc to Mr.K.Bharathi, Advocate Sr.96822

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srg 27/12/2019