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

+ W.P.(C) 6633/2019 & CM APPL. 28017/2019

BHARTIYA KHADYA NIGAM KARAMCHARI SANGH

..... Petitioner

Through: Mr. Bahar U Barqui, Advocate

versus

FOOD CORPORATION OF INDIA & ANR. Respondents

Through: Mr. Om Prakash, Mr. Rajeev Ranjan
Pathak and Mr. Pradeep Kumar
Tripathi, Advocates for FCI
Mr. Jitesh Vikram Srivastava,
Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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08.07.2019

Vide the present petition, the petitioner seeks direction thereby directing the respondents to meet and comply with the Legal Notices dated 24.04.2019 and 13.05.2019 for complying on the terms and conditions set out in Memorandum of Understanding dated 09.11.2019 and Memorandum of Settlement dated 01.04.2010 agreed between the parties.

Further seeks direction thereby directing the respondent to make all the schemes contained in Memorandum of Settlement dated 01.04.2010 effective from 01.01.2007 and further pass appropriate orders and/or directions especially in the nature of certiorari quashing an effectivity dated i.e. 01.12.2008 and 01.04.2016 and further direct the respondent to make effective these schemes w.e.f. 01.01.2007.

It is not in dispute that the petitioner approached to conciliation Officer under the Industrial Disputes Act and the proceedings of the same was closed vide order dated 06.07.2017. The learned Conciliation Officer while disposing of the conciliation proceedings, stated as under:-

- (i) Management is advised to honour the settlement dated 01.04.2010 and 06.06.2016 in its letter and spirit and resolve the issue as soon as possible but not later than 3 months.
- (ii) Management is also advised to get the issue no.2 examined through their legal team in terms of the provisions of ID Act and report within 45 days.
- (iii) The Union is at liberty to raise any of the issue as afresh if it is not resolved within stipulated period of time. Further, if the union deem it fit they may file a separate petition for enforcement of settlement dated 01.04.2010.

On perusal of the observations made by the Conciliation Officer, it is clarified that the union is at liberty to raise any of the issue afresh if it is not resolved within stipulated period of time. Further, if the union deem it fit, they may file a separate petition for enforcement of settlement dated 01.04.2010.

It is also not in dispute that as advised by the Conciliation Officer, the respondents have not taken the steps. I note in proceedings dated 06.07.2017, It is clarified that the Industrial Dispute is closed with liberty to the Union to raise any of the issue afresh, if required.

Initially, the petitioner approached Conciliation Officer under the Industrial Dispute Act for the adjudication of the issue as raised in the present petition, however, without awaiting the remedy available, the

petitioner has approached to this Court. There is no dispute on the settle proposition of law that having the alternative remedy, a jurisdiction of this court still remains.

But as the petitioner has, initially, approached the conciliation Officer under the Industrial Tribunal Act, therefore, I am not inclined to pass any order. The same is dismissed with liberty to approach the Industrial Tribunal.

The petition is accordingly, dismissed and disposed of.

SURESH KUMAR KAIT, J

JULY 08, 2019

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