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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 22517 of 2019

Sk. Amir Ali
Vs.
The State of West Bengal & Ors.

Mr. R. Guha Thakurta,
Mr. Suvadip Bhattacharjee
... For the petitioner.

Mr. Narayan Chandra Bhattacharyya,
Ms. Sujata Ghosh
.... For the State.

Mr. Balaram Patra, led by
Mr. Jayanta Dasgupta
... For the respondent no.3.

Affidavit-in-opposition filed by the respondent no.3
is taken on record.

The present writ application has been filed, *inter alia*, praying for a direction upon the respondent no.2 to initiate conciliation proceedings in respect of the disputes which are pending since 4th July, 2016 and/or take consequential steps thereon.

Mr. Guha Thakurta, appearing in support of the aforesaid application submits that the petitioner had been appointed on 1st October, 2003 as Commercial Supervisor with the respondent no.3. The petitioner since joined the post and had been working to the satisfaction of the employer. The petitioner says that the service of the

petitioner had been terminated with effect from 9th July, 2008. Immediately thereafter, the petitioner raised an industrial dispute before the Labour Commissioner, West Bengal, in writing, which was registered on 10th August, 2008 and conciliation proceedings commenced. It is submitted on behalf of the petitioner that the conciliation having failed, a certificate to such effect in Form 'S' was issued by the Conciliation Officer on 6th April, 2009. On the strength of such certificate issued by the Conciliation Officer, the petitioner filed an application under Section 10(1B)(d) of the Industrial Disputes Act, 1947, before the Second Labour Court, West Bengal. By an Award dated 30th December, 2015, the Second Labour Court held that the Tribunal had no territorial jurisdiction to try the case. Consequently, the said case was disposed of and dismissed. Having failed in its attempt to get its grievances redressed before the Second Labour Court, the petitioner once again lodged a complaint as regards his termination from service. Such fact would corroborate from the letter dated 4th July, 2016, which bears the seal and signature of the office of Assistant Labour Commissioner, Hooghly. Drawing attention of this Court to the subsequent representations made by the petitioner on 23rd April, 2019 and 17th July, 2019, the petitioner submits that the aforesaid representations made by the petitioner did not yield any result. No conciliation proceedings took place. Being aggrieved with the failure on the part of the

respondent no.2 to take steps for initiation of conciliation proceedings, the present writ application has been filed.

A reference has been made to the case of Howrah Stores and another vs. Eighth Industrial Tribunal and others, reported in 1989 LLN 1060.

Per contra, Mr. Patra, appearing for the respondent no.3 submits that his client had no notice with regard to the complaint made by the petitioner before the respondent no.2. At no point of time, the respondent no.2 had informed the respondent no.3 as regards the complaint lodged by the petitioner. The respondent no.3 has come to learn with regard to the contents of the complain dated 4th July, 2016 from the writ petition. Mr. Patra, on instruction submits that his client is ready and willing to appear before the respondent no.2 for the purpose of conciliation.

I have heard the learned advocates appearing for the respective parties and I am of the view since the respondent no.3 is now ready and willing to appear before the respondent no.2 it would be appropriate to direct the respondent no.3 and the petitioner to appear before the respondent no.2 for conciliation. However, taking into consideration the fact that the petitioner is out of service since 2008 and the conciliation process is pending since 4th July, 2016, it would be appropriate to direct the

respondent no.2 to take a decision on the matter within a period of thirty days from the date when the first conciliation meeting is held. I, therefore, direct both the petitioner and the respondent no.3 to appear before the office of the respondent no.2 on 12th October, 2022. It is made clear that in the event the respondent no.3 wishes to file any document, it shall do so on 12th October, 2022. The respondent no.2 shall complete the conciliation proceedings within a period of thirty days from 12th October, 2022.

In the event, the respondent no.2 is of the view that no conciliation is possible, consequential steps be taken by him, in accordance with law.

With the aforesaid observations and/or directions, the writ application, being WPA 22517 of 2019 is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)