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W.P.Nos.23301 to 23312 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.23301 to 23312 of 2009

W.P.No.23301 of 2009 :-

S.Elumalai

...Petitioner

-Vs-

1. The Labour Assistant Commissioner,
(Conciliation -1)
Kuralagam,
Chennai 108.

2. G.S.K.Consumer Service,
Post Office No.15,
Gurhan – 122 002.

3. Durandel Foods Private Limited,
No.71, Chettipunniam,
Kancheepuram District,
Pin- 603 204.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Order in Na.Ka.No.1018 of 2008 dated 28.05.2008 passed by the first respondent and quash the same and to further direct the first respondent to proceed with the conciliation and issue failure report.



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In all W.Ps.

For Petitioner : Mr.V.Kannan

For Respondents

For R1 : Mr.L.S.M.Hasan Fizal

Additional Government Pleader

For R2 & R3 : No appearance

COMMON ORDER

These writ petitions have been filed challenging the orders passed by the first respondent dated 28.05.2008, thereby rejecting the conciliation proceedings.

2. The petitioner in all the writ petitions were working under the third respondent for the past 20 years. The third respondent was doing the packing part of the work for Horlicks. While being so, on 28.01.2007, the third respondent had suddenly announced closure of its factory, which was running with huge profits. The second respondent is being the principal employer is liable for the illegal acts of the third respondent.

3. Therefore, the petitioner raised industrial dispute under Section 2A of the Industrial Dispute Act (hereinafter called as “the I.D.



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Act”), before the first respondent. However, the first respondent rejected the industrial dispute on the ground that already all the petitioners were settled with all benefits under the settlement arrived under Section 12(B) of the I.D. Act, between the petitioners and the third respondent. Aggrieved by the same the petitioners filed the present writ petitions.

4. Heard the learned counsel appearing on either side and perused the material placed before this Court.

5. The learned counsel appearing for the petitioner in all writ petitions submitted that the first respondent failed to exercise its jurisdiction properly. The first respondent gone beyond its jurisdiction and made observations alien to the settlement. He also relied upon the judgment of the Hon'ble Division Bench of this Court passed in ***W.A.No.432 of 2005*** dated ***01.03.2005*** in the case of ***Management of Reckitt and Benckiser (India) Ltd., Vs. United Labour Federation and ors.***, in which this Court held that there is difference between the conciliation and adjudication. In conciliation proceedings, no rights are decided and no binding order can be passed by the Conciliation Officer.



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The purpose of conciliation is to try to bring the parties to an amicable settlement by persuasion, reasoning, etc., without need to go in for adjudication. It may be mentioned that the duty of the Conciliation Officer is only to mediate and try to promote a settlement of the industrial dispute without going to Court. The functions of the Conciliation Officer are not judicial or quasi-judicial but are only administrative in nature.

6. The above judgement is squarely applicable to the case on hand, since the first respondent rejected the industrial dispute raised by the petitioners under Section 2A of the I.D. Act, on the ground that he could not proceed with the matter due to the settlement under 12(3) of the I.D. Act entered between the petitioners and the third respondent. Therefore, the impugned orders are illegal and it cannot sustain, since the first respondent has no jurisdiction to reject the issue for adjudication. The first respondent is a Conciliation Officer and the purpose of conciliation is to try to bring the parties viz., the petitioners and the third respondent to an amicable settlement. In fact, the petitioners are disputed the alleged agreement entered between them with the third respondent.



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Therefore, the impugned orders passed in all these writ petitions cannot be sustained and they are liable to be set aside.

7. Accordingly, the impugned orders dated 28.05.2008, passed by the first respondent in all the writ petitions are hereby quashed and the first respondent is directed to proceed with the conciliation proceedings between the petitioners and the third respondent. If no settlement arrived between the petitioners and the third respondent, the first respondent shall send a failure report to the appropriate forum.

8. With the above directions, all the writ petitions are allowed.
There shall be no order as to cost.

21.09.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

rts

To
1. The Labour Assistant Commissioner,
(Conciliation -1)
Kuralagam,
Chennai 108.



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G.K.ILANTHIRAIYAN. J.

rts

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