

D/L.02.  
August 23, 2024.  
KAUSHIK.

WPA No. 28372 of 2023

Sankardas Roy  
Vs.  
The Deputy Chief Labour Commissioner  
(Central), Kolkata and others

Mr. Sagnik Roy Chowdhury,  
Mr. Rohan Raj

... for the petitioner.

Mr. Ranjay De  
Mr. Basabjit Banerjee  
Mr. Adityajit Abel Bose

...for the respondent no. 3.

The grievance of the petitioner is directed against a proceeding before the Conciliation Officer and Assistant Labour Commissioner (Central)-II, Kolkata.

Briefly, the petitioner had approached the Conciliation Officer under the provisions of Section 12 of the Industrial Disputes Act, 1947 (said Act). After hearing both parties, the Conciliation Officer by a communication dated October 11, 2023 closed the conciliation proceedings. The conciliation proceeding was closed primarily on the ground that no amicable settlement could be arrived at. The petitioner is aggrieved to the limited extent that under Section 12(4) of the Act, the Conciliator had not forwarded a copy of the impugned communication to the Government. In this

connection, Section 12(4) of the Act, *inter alia*, provides as follows:

*12. Duties of conciliation officers.—*

*(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.*

On behalf of the private respondent no. 3, it is submitted that the petitioner is not an employee within the meaning of the said Act and this issue has also not been adverted to by the Conciliation Officer. Moreover, the job function of the petitioner as a 'Cluster Manager' does not fall within the ambit of an employee under the Act. In such circumstances, no proceeding is maintainable under the Act and the same was liable to be dismissed at the threshold.

Inasmuch as the impugned communication merely records the fact that there was no scope of conciliation because of the divergent views taken by both the parties, there has been no final or adverse decision taken which affects the petitioner. In view of the above, the writ petition challenging the impugned communication is not maintainable. There is no adverse order which the petitioner can complain of.

In view of the above, WPA 28372 of 2023 stands dismissed.

The Conciliator is directed to act in terms of Section 12(4) of the Act and file the impugned communication with the Appropriate Authority in terms of the above section.

**(Ravi Krishan Kapur, J.)**