

2022 SCC OnLine Tri 133 : (2022) 2 CLR 934

In the High Court of Tripura at Agartala
(BEFORE S. TALAPATRA, J.)

Zydus Healthcare Ltd. ... Petitioner(s);

Versus

State of Tripura and Others ... Respondent(s).

W.P. (C) No. 937 of 2021

Decided on March 2, 2022

Advocates who appeared in this case:

For Petitioner(s) : Mr. Anurag Lakhota, Adv.

Mr. B. Paul, Adv.

For Respondent(s) : Mr. P. Roy Barman, Sr. Adv.

Mr. S. Bhattacharjee, Adv.

Mr. D. Sharma, Addl. G.A.

The Order of the Court was delivered by

S. TALAPATRA, J.:— Heard Mr. Anurag Lakhota and Mr. B. Paul, learned counsel appearing for the petitioner. Also heard Mr. D. Sharma, learned Addl. G.A. appearing for the respondents No. 1 and 2 and Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the respondent No. 3.

2. The petitioner has approached this court being aggrieved by the order dated 18.11.2021 as issued by the respondent No. 2, the Labour Commissioner, Government of Tripura [Annexure-1 to the writ petition]. For purpose of reference, the entire text of the said order dated 18.11.2021 is reproduced hereunder:

"GOVERNMENT OF TRIPURA
LABOUR DIRECTORATE

NO. F.12(48).LAB/IR/CRU/2021/6820-23 Dated, Agartala the 18th November, 2021

ORDER

Whereas an Industrial Dispute exists between the parties-Shri Tathagata Paul, Senior Business Officer, Zydus Health Care Ltd. 'Zydus Towers', employer of 'Zydus Health Care Ltd., 'Zydus Towers', Goregaon, Mumbai.

Versus

The Management of Zydus Health Care Ltd. 'Zydus Towers', Goregaon, Mumbai.

AND WHEREAS the Labour Commissioner being the Conciliation Officer under Industrial Disputes Act, 1947 desired to take up the matter in conciliation proceedings and convened State level conciliation meeting which was held on the 28th September, 2021 and 5th October, 2021 in the chamber of the Labour Commissioner Labour Directorate, Agartala for discussion and amicable settlement of the above dispute.

AND WHEREAS in course of the process of the amicable settlement and discussion the employer representatives could not clarify the specific reason behind termination of Shri Tathagata Paul. Moreover, the domestic inquiry conducted by the Management does not seem to be impartial and authentic.

Now, Therefore, in exercise of the powers conferred by Section 12(2) of Industrial Disputes Act, 1947 and after careful examination of all the relevant documents submitted by the Management of "Zydus Heath Care Ltd." and Shri Tathagata Paul, retrenched employee of 'Zydus Heath Care Ltd', the undersigned hereby directs the Management of "Zydus Heath Care Ltd. Zydus Tower" to reconsider the issue and reinstate Shri Tathagata Paul in his service.

An intimation regarding the compliance of the said direction should be reached to the undersigned within 15 days from the receipt of this Order.

Illegible
(Dr. Naresh Babu N. IFS)
Labour Commissioner,
Government of Tripura"

3. The solitary plea that has been raised by the petitioner is that whether in exercise of power conferred by Section 12(2) of Industrial Disputes Act, 1947, the Labour Commission can unilaterally reinstate a retrenched employee in his service with a direction for compliance within a fortnight. Section 12 is in respect of duties of Conciliation Officer. Sub-section 2 of Section 12 of Industrial Disputes Act provides that the conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement for the dispute.

4. The said provision is unambiguous. It implies that the duty of the conciliation officer is to do all things to bring the parties to a consolidated settlement. But when the settlement cannot be struck, he does not have any power to give any direction in a particular manner to be followed by any party. However, the aggrieved worker may on failure of reconciliation ask the appropriate government for referring the dispute to the Labour Tribunal/Court.

5. Mr. D. Sharma, learned Addl. G.A. appearing for the respondents No. 1 and 2 has fairly submitted that the Labour Commissioner, Government of Tripura has exceeded its power.

6. Mr. P. Roy Barman, learned senior counsel appearing for the respondent No. 3 has submitted that the order dated 12.11.2021 [Annexure-1 to the writ petition] cannot survive the scrutiny of law. He has further urged this court that the appropriate government may be directed to refer the matter to the Labour Tribunal/Court under Section 10 of the Industrial Disputes Act, 1947 so that the justice is provided to the aggrieved worker.

7. Having appreciated the submissions of the learned counsel, the records as produced with the writ petition and the reply, this court is of the view that the said order dated 18.11.2021 has been passed without authority and accordingly, the same stands set aside. The aggrieved worker may approach the appropriate government represented by the Labour Commission to refer his dispute, which will be delienated by him in the representation to be filed to the Labour Tribunal/Court. On submission of such representation, the appropriate government shall consider the said representation within a period of one month from today and shall pass the appropriate order in respect of the reference under Section 10 of the Industrial Disputes Act. The respondent No. 3 shall file such representation within a period of seven days and thirty days' time for consideration will start from the date of filing such representation.

8. In terms of the above, this writ petition stands disposed of.

9. There shall be no order as to costs.

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