
(1999) 10 DEL CK 0075

In the Delhi High Court

Case No : CWP. No. 6162/99 and CM. 11091/99

CONCOR Emp. Union

APPELLANT

Vs

Management of M/s Container Corpn. of India Ltd. and
Another

RESPONDENT

Date of Decision : 29-10-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 2 LLJ 262

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Ms. Sunita Bhardwaj, for the Appellant; Mr. Rajinder Dhawan, for the Respondent

Judgement

A.K. Sikri, J.—Petitioner is the employees Union of Respondent No. 1., namely, Container Corporation of India Ltd. (CONCOR). It has filed this writ petition with the following prayers :

"(I) Writ order or direction in the nature of MANDAMUS or any other appropriate write order or direction, restraining the respondents from adopting, implementing the proposed promotion policy in relation to the employees working with the respondent No. 1 without complying with the provisions of law.

(II) Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction, quashing the notification dated 23.9.99, regarding adoption of the proposed promotion policy without compliance of the due process of law."

2. It is averred in the writ petition that with a view to benefit its favorites, Management proposed a promotion policy for the employees and it was purportedly notified on 10.9.98. However, petitioner did not receive a copy of the said promotion policy and, accordingly, it wrote a letter dated 12.10.98. Thereafter, vide letter dated 20.10.98 the copy of the promotion policy was sent

to the petitioner along with notice dated 10.9.98. The petitioner protested against the adoption of the said promotion policy. It is further alleged that without any further notice, the respondents have adopted the promotion policy and are now going to hold departmental examination as per the same. The promotion policy is challenged on the ground that as per earlier promotion policy the time bound promotions were given and the CONCOR cannot make unilateral policy.

3. Notice dated 10.9.98 which was given, was u/s 9-A of the Industrial Disputes Act. The main ground taken in the writ petition to challenge the promotion policy is that mandatory provisions of Section 9-A of the Industrial Disputes Act prohibit the alteration of the conditions of service of the workmen unilaterally. It is also averred in the writ petition that since Union had expressed its intention of non-acceptance of the said promotion policy, the only way left out to the respondent was to raise an industrial dispute in conciliation or enter into a settlement with the petitioner union with regard to the proposed promotion policy. The averments made by the petitioner clearly show that the petitioner is seeking to enforce the rights as per the provisions of Industrial Disputes Act. The appropriate remedy for the petitioner in the circumstances is to raise industrial dispute under the Industrial Disputes Act which is alternative efficacious remedy. This writ petition is accordingly, dismissed with liberty to the petitioner to raise industrial dispute before the appropriate Government.