

Standard Chartered Bank Vs. Asst. Labour Commissioner (Central) and ors.

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Court : Kolkata

Decided On : Dec-05-1991

Reported in : (1992)2CALLT223(HC),[1992(65)FLR769],(1994)IILLJ792Cal

Judge : Susanta Chatterjee, J.

Acts : [Industrial Disputes Act, 1947](#) - Section 12

Appeal No. : Case No. 971/1990

Appellant : Standard Chartered Bank

Respondent : Asst. Labour Commissioner (Central) and ors.

Disposition : Petition allowed

Judgement :

Susanta Chatterjee, J.

1. The present writ petition has been filed by the petitioner Standard Chartered Bank challenging the order dated April 3, 1990, made by the Assistant Labour Commissioner (Central), the respondent No. 1 and the copy thereof is Annexure 'C' to the writ petition and for other consequential reliefs on the grounds that the impugned order deciding to initiate conciliation proceeding is bad in law since there is no relationship of employer and employee and there does not exist any industrial dispute authorising the respondent No. 1 to initiate any conciliation

proceedings. It is stated in detail that the petitioner happens to be a personal driver of an Executive of the bank. At no material point of time the petitioner was appointed by the bank and there cannot be any conciliation proceeding on the issue of dismissal of the same by his employer. Admittedly, there is neither any letter of appointment nor a letter of termination. This Court had given specific opportunities to the respondent employee to satisfy this Court as to whether there is anything on record to show that the petitioner was employed by the Bank. Nothing has been produced; on the contrary, it transpires from the materials on record that the respondent workman obtained the employment from the employee of the bank in his personal capacity and he signed his letter of appointment accordingly. In the affidavit filed before this Court nothing has been stated that he received appointment by signing a letter which shows inter alia that he was the personal driver of the bank's employee. In view of all these aspects, this Court is of the view that there is no industrial dispute and the respondent No. 1 cannot initiate any conciliation proceedings within the scope of Industrial Disputes Act since there is lack of jurisdiction. It would appear as an abuse of process of law to permit the conciliation proceedings to continue. Accordingly, this Court finds sufficient merit in the writ petition by quashing the conciliation proceeding and by setting aside the impugned order, copy of which is Annexure 'C' to the writ petition. Let an appropriate writ be issued accordingly. There will be no order as to costs.

2. All parties concerned to act on the signed copy of the operative part of this judgment on the usual undertaking.