IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4733 of 2015

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1. Aditya Kumar Son of Sri Rajendra Prasad Singh Resident of Village and Post Office- Pokharaira, Police Station- Muffasil, District- Samastipur.

.... Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur.
2. The Divisional Railway Manager, East Central Railway, Samastipur.
3. Sr. Divisional Mechanical Engineer (D), East Central Railway, Samstipur.
4. The Divisional Mechanical Engineer (D), East Central Railway, Samastipur.
5. The State of Bihar through Commissioner of Commercial Taxes, Govt. of Bihar, Patna.
6. The Deputy Commissioner of Commercial Taxes, Govt. of Bihar Integrated Inquiry-Chowki Karamnasa, Kaimur.
7. The Assistant Commissioner Commercial Taxes, Govt. of Bihar Integrated Inquiry Chowki, Karamnasha, Kaimur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Priya Ranjan
Mr. Mritunjay Kumar

For the Respondent/s : Mr. Lalit Kishore (PAAG)
Mr. Anil Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 29-07-2015

Heard Mr. Priya Ranjan for the petitioner, Mr. Anil Kumar Sinha for the respondent East Central Railways (for short “E.C.R.”) and A.C. to PAAG for the State.

There are certain facts which are not in much dispute. The Railways required service of trucks to transport Railway articles. An agreement was reached between the petitioner and the E.C.R. whereunder the petitioner was required to provide truck to the E.C.R. on certain condition(s) and at the prescribed rate(s). The agreement between the parties expired on 6.11.2013. There is also no dispute that the legal dues of the petitioner up to 16.08.2013 have been paid to the petitioner on raising a bill in this regard. The truck of the petitioner was seized on 13.9.2013 by the Sales Tax Department of the Government. The articles laden on the truck were found being carried without payment of Bihar Sales Tax. There is also no dispute that the truck was subsequently released by the Sales Tax Department on 14.1.2014. One relevant fact which has been placed before the Court that on 13.9.2013 i.e. after seizure of the truck, the respondent E.C.R. generated Suvidha form (statutory form D/9) in favour of the truck of the petitioner enabling him to pray for release of the truck. The aforesaid submission, however, has been disputed by the petitioner. It has been stated that the form was generated and submitted to the Sales Tax Department by the E.C.R.

The present writ petition has been filed by the petitioner for a direction upon the respondents, particularly, the authorities of E.C.R. to pay the legal dues of the petitioner for the truck which was supplied by the petitioner and used by the Railways between the period 13.9.2013 to 14.1.2014. It has been submitted, which has not been denied by the respondents, that several representations in this regard were filed by the petitioner for payments of the admissible dues including the security deposit.

Mr. Sinha, Counsel for the respondent E.C.R. has submitted that the matter may be disposed of permitting the petitioner to raise a claim with regard to admitted legal dues of the petitioner before the Senior Divisional Mechanical Engineer (D), E.C.R., Samastipur (Respondent no. 3) who may be directed to examine the same and take appropriate decision regarding payment of those dues within a time frame.

Counsel for the petitioner having appreciated the said stand of Mr. Sinha has agreed for disposal of the matter in the aforesaid term.

Before disposing of the application in the light of the agreement between the parties, this Court would only notice that there are other claims and counter claims respectively of the petitioner and the respondents which this Court need not go into since there is provision of raising a dispute in this regard before the Arbitrator in terms of agreement reached between them. However, on request of the parties, this Court would notice that the contention of the petitioner is that during the subsistency of the agreement, a request for extension thereof was made by the petitioner which, however, has been disputed by the respondent ECR contending that the extension, in the facts of the case, could not be granted to the petitioner.

Consequently, the writ application is disposed of permitting the petitioner to approach Respondent no. 3 with a copy of last representation filed by him together with a copy of the present order within three weeks whererafter the said respondent will examine the grievance of the petitioner and take final decision on his claim within a maximum period of three weeks therefrom.

(Kishore Kumar Mandal, J)

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