

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 17716 of 2014 (L)

PETITIONER:

BOBBY JOSEPH
S/O.V.C.JOSEPH, VALLIKATTIL, ETTUMANNOOR
KOTTAYAM.

BY ADVS.SRI.S.SHANAVAS KHAN
SMT.S.INDU

RESPONDENTS:

1. THE DIVISIONAL RAILWAY MANAGER(WORKS)
SOUTHERN RAILWAY, THIRUVANANTHAPURAM-695 001.

2. THE DIVISIONAL ENGINEER,
SOUTHERN RAILWAY, THRISSUR-680 010.

3. THE ASSISTANT DIVISIONAL ENGINEER,
SOUTHERN RAILWAY, THIRUVANANTHAPURAM DIVISION
THIRUVANANTHAPURAM-695 001.

4. THE ASSISTANT DIVISIONAL ENGINEER,
SOUTHERN RAILWAY, THRISSUR-680 010.

R1-R4 BY ADV. SRI.C.S.DIAS,SC, RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

A P P E N D I X

PETITIONER(S) ' EXHIBITS

EXT.P1 COPY OF THE AGREEMENT EXECUTED BETWEEN PETITIONER AND FIRST RESPONDENT.

EXT.P2 COPY OF THE FIR IN CRIME NO.638/10 OF KODAKARA POLICE STATION.

EXT.P3 COPY OF THE LETTER NO.V/W.148/22/TVC/09 DATED 20/4/2011 OF THE FIRST RESPONDENT.

EXT.P4 COPY OF THE REPRESENTATION DATED 7/2/2013 PREFERRED BY PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P5 COPY OF THE REPRESENTATION DATED 7/6/2013 SUBMITTED BY PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P6 COPY OF THE REPRESENTATION DATED 3/9/2013 PREFERRED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P7 COPY OF THE LETTER DATED 24.3.2014 ISSUED BY THE OFFICE OF THE FIRST RESPONDENT.

RESPONDENT(S) ' EXHIBITS

NIL.

/TRUE COPY/

P.S TO JUDGE

P.V.ASHA, J.

W.P(c) No.17716 of 2014-L

Dated this the 10th day of April, 2015

JUDGMENT

This Writ Petition is filed by a Contractor who undertook a work namely making up of CESS in Chalakudi permanent way section. Pursuant to the agreement executed with the Railway, the petitioner completed the work on 28.11.2011.

2. The writ Petition is filed seeking a direction to the respondents to disburse an amount of Rs.10,49,974/- under the head of security deposit and final bills to the petitioner.

3. The respondents have filed a counter affidavit admitting the completion of the work. At the same time it is stated that the claim in relation to the accident causing death of a labourer is pending before the Workmen's Commission as W.C.C No.225 of 2010 on the file of the Workmen's Compensation Court, Thrissur, in which the claim is for a sum of Rs.7 lakhs as compensation.

4. Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the Railway, Shri C.S.Dias.

5. It is an admitted case that the petitioner has remitted

a sum of Rs.8 lakhs in Federal Bank, Gandhi Nagar, Kottayam on 24.03.2014 towards the claim in respect of W.C.C. It is admitted on either side that as per the agreement, the petitioner being the contractor is responsible to meet the claim raised by the labourers in respect of any accident occurred.

Therefore there is no reason to withhold the amount due to the petitioner towards the work already done by him and final bill submitted by him. The Writ Petition is accordingly disposed of directing the respondents to realise an amount due to the petitioner as per the final bill submitted by him, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
(P.V.ASHA, JUDGE)

rtr/