

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 32815 of 2015 (B)

PETITIONER:

**P.UTHIRAPATHY, AGED 58 YEARS,S/O.B.PERUMAL,
9/1, HONEY DEW DEPARTMENT, KILAPUK GARDEN,
2ND STREET, KILAPUK, CHENNAI - 600 010.**

BY ADV. SMT.SREEKALA KRISHNADAS

RESPONDENT(S):

- 1. THE UNION OF INDIA, REPRESENTED BY
ITS SECRETARY TO GOVERNMENT,
MINISTRY OF RAILWAYS, RAIL BHAVAN, 1,
RAISINA ROAD, NEW DELHI - 110 011.**
- 2. THE INDIAN RAILWAY, REPRESENTED BY
ITS CHAIRMAN, MINISTRY OF RAILWAYS,
RAIL BHAVAN, 1, RAISINA ROAD, NEW DELHI - 110 011.**
- 3. THE SOUTHERN RAILWAY,
REPRESENTED BY ITS GENERAL MANAGER,
SOUTHERN RAILWAY HEAD QUARTERS,
POONAMALLE HIGH ROAD PARK TOWN, CHENNAI,
TAMILNADU - 600 003.**
- 4. THE DIVISIONAL RAILWAY MANAGER - COMMERCIAL,
PALAKKAD DIVISION, DRM COMPLEX,
OLAVAKKODE, PALAKKAD - 678 002.**
- 5. THE SENIOR DIVISIONAL RAILWAY MANAGER - COMMERCIAL,
DRM COMPLEX, OLAVAKKODE, PALAKKAD - 68 002.**
- 6. THE DEPUTY STATION MANAGER - COMMERCIAL,
SHORNUR RAILWAY STATION, SHORNUR JUNCTION,
PALAKKAD DISTRICT.**
- 7. INDIAN RAILWAY CATERING THE TOURISM CORPORATION
LIMITED, REPRESENTED BY ITS MANAGING DIRECTOR,
CORPORATE OFFICE, 9TH FLOOR, BANK OF BARODA BUILDING,
16, PARLIAMENT STREET, NEW DELHI - 110 011.**

BY SRI.C.S.DIAS,SC, RAILWAYS

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-10-2015 ALONG WITH WPC.32816/2015 & CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P-1: TRUE COPY OF THE LETTER DATED 13.10.2008 ISSUED BY THE 7TH RESPONDENT.
- EXT.P-2: TRUE COPY OF THE AGREEMENT DATED 19.11.2010.
- EXT.P-3: TRUE COPY OF THE LETTER DATED 17.7.2015 ISSUED BY THE 4TH RESPONDENT.
- EXT.P-4: TRUE COPY OF THE LETTER DATED 31.7.2015 ISSUED BY THE PETITIONER.
- EXT.P-5: TRUE COPY OF THE RELEVANT PAGES OF CATERING POLICY 2010.
- EXT.P-6: TRUE COPY OF THE LETTER DATED 5.8.2015 ISSUED BY THE FOURTH RESPONDENT.
- EXT.P-7: TRUE COPY OF THE LETTER DATED 30.9.2015 ISSUED BY THE 6TH RESPONDENT.
- EXT.P-8: TRUE COPY OF THE LETTER DATED 30.9.2015 ISSUED BY THE PETITIONER.
- EXT.P-9: TRUE COPY OF THE LETTER DATED 14.10.2015 ISSUED BY THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A. MUHAMED MUSTAQUE, J

**W.P.(C).Nos. 32815, 32816, 32817
& 32966 of 2015**

Dated this the 30th day of October, 2015

JUDGMENT

These writ petitions are filed by licencees of stalls in the railway station. Admittedly, their licences are expired. They were granted extension on condition that they have to pay enhanced licence fee.

2. The petitioners challenge fixation of enhanced licence fee.

3. The learned Standing Counsel points out, as per the agreement of the licence, the petitioners have an alternate remedy of arbitration and therefore, these writ petitions are not maintainable. Further, it is submitted that the railway exercised their discretion to extend the licence validity on condition that the petitioners shall pay the enhanced licence fee. Therefore, the petitioners cannot challenge the above decision in question before this Court under Article 226 of the Constitution.

4. The learned counsel for the petitioners, after pursuation for this Court, submits that they are prepared to pursue before remedy in terms of the agreement by invoking for arbitration and they may be permitted to continue on enhanced licence fee without prejudice to the right to challenge the same before the Arbitration Tribunal. In that view of the matter, these writ petitions are disposed as follows :

- i) The petitioners shall be permitted to continue to run the licence stall on condition that the petitioners shall pay the enhanced licence fee.
- ii) The arrears of enhanced licence fee shall be paid by the petitioners within one month from today.
- iii) The payment of enhanced licence fee without prejudice to the rights of the petitioners to challenge the enhanced licence fee before the Arbitration Tribunal.
- iv) The petitioners shall undertake before the

competent authority that they will pay the enhanced licence fee within one month from today, based on the undertaking, the petitioners shall be permitted to operate the stall.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE

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