

**THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 18447 of 2013 (O&M)

Date of decision: January 5, 2015

M/s Roop Kumar Mahajan & Sons

...Petitioner

Versus

Northern Railway and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. Sanjiv Bansal, Advocate,
for the petitioner.

Mr. Puneet Jindal, Senior Advocate with
Ms. Sakshi, Advocate, for
the respondents.

K. KANNAN, J. (Oral)

1. The petitioner, which is a booking agent for Jalandhar, brings a challenge to the rejection of an application for renewal of his sub-agency at Industrial Area at Jalandhar, on the ground that it was not allotted by adopting a tender process. The petitioner's contention is that the agency at Jalandhar along with sub-agency were brought through a tender process and the rejection of renewal only for a sub-agency is not justified. The ground of such rejection, according to the petitioner, is erroneous, for, the sub-agency that was coupled along with the agency had been brought only through a tender process.

2. The Railways' response was that a decision had been taken to do away with sub-agencies and if there was to be a renewal of sub-agency, it

could not be done only for sub-agencies, for, it was to be phased out and as and when a renewal application was made, it could be taken up only through a tender process as if for a fresh agency.

3. At the hearing on 27.11.2014, on a claim made by the petitioner that his case was being singled out by practice of discrimination by not renewing the sub-agency, while no such fetter had been imposed for several other persons, I had directed the respondents to file an affidavit through an officer not below the rank of Chief Commercial Manager that in no case was a sub-agency that was issued along with the agency had been renewed other than a fresh tender process. The respondents have filed an affidavit through Chief Commercial Manager, Shri D.K. Singh dated 17.12.2014 stating that no sub-agency had been renewed along with the main city booking agency, in any case, after the year 2012 in Ferozepur Division.

4. I do not find the affidavit restricting that no such extension had been given in Ferozepur Division answers the situation of what I had directed on 27.11.2014. If the decision had been made to phase out the sub-agencies and that it would not be renewed otherwise other than a tender process by granting a fresh agency, I cannot support the order that has been passed already on Annexure P/6 to make it appear as though the sub-agency has not been allotted to the petitioner under a tender process. It is factually incorrect. The learned Senior Counsel appearing on behalf of the respondents would try to qualify the language of Annexure P/6 to be understood as a sub-agency which was not allotted independently through a tender process. I cannot feed an expression of what is not found in the document. I quash the order brought through Annexure P/6.

5. I hold that the sub-agency has been granted to the petitioner

along with an agency in a tender process. If the petitioner has secured a renewal of the agency, the renewal of the sub-agency ought to be a matter of course, unless there are any specific rules or instructions that deny such an exercise. The respondents shall be at liberty to take a fresh decision in the light of any specific instructions that a renewal could not be made of a sub-agency if it was not originally done through an independent tender process other than a grant along with agency through a tender process. The Senior Divisional Commercial Manager shall pass a fresh order citing any rules/instructions that may justify the decision either to renew or reject the same. Such decision shall be taken and communicated to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

January 5, 2015
prem

(K.KANNAN)
JUDGE