

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.22364 of 2012 (O&M)
Date of decision: August 08, 2017

M/s Sushil Kumar Gupta & Co. ...Petitioner

Versus

Union of India and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. P.S. Rana, Advocate for the petitioner.
Mr. Jagdish Marwaha, Special Counsel-cum-Senior
Advocate, Railways, for the respondents.

Rajan Gupta, J.(oral)

Only grievance of the petitioner is to the order dated 22.10.2012 (Annexure P-10). Admittedly, pursuant to the allotment of work to the petitioner, neither he took any steps to start the same on the ground that funds were not available with the Railways. His dues to the extent of Rs.60.00 lacs are already pending. He, thus, made a request that the contract may be closed. While accepting this request, the respondent department passed order Annexure P-7, which reads as under:-

“On your request and no claim certificate given by you, the above noted work has been closed on administration ground without repercussion on either side. Please attend the office of ADEN/JUDW for joint measurement of work if done so far on any working day within seven days from the receipt of this letter, failing which the measurements taken by SSE/W/JUDW will be taken as final and no claim whatsoever will be entertained at later stage.”

After six months thereof, an order Annexure P-10 was passed

by the Sr. Divisional Engineer, stating therein that the petitioner was liable to pay liquidated damage charges @ 10% of the contract value, which were recoverable from the pending dues. Limited prayer of the petitioner is that he is not liable to pay any liquidated damage charges in view of order Annexure P-7, already passed by the authority. Pursuant to order dated July 19, 2017 passed by this court, Shalender Kumar, Senior Divisional Engineer, Railway, Ambala is present in court. A query has been put to him whether matter can be reconsidered by the railway authorities. He has raised no objection to the same. Under the circumstances, the order 22.10.2012 is hereby set-aside. The matter is remitted to the concerned authority for decision afresh after hearing the parties.

Allowed in these terms.

(RAJAN GUPTA)
JUDGE

August 08, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No