

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.12.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.Nos.30793 and 30794 of 2014 and
M.P.No.1 of 2014
(Heard through VC)

P.Uthrapathy

..Petitioner in both W.Ps

Vs.

1.The Divisional Railway Manager,
Works Branch, Chennai Division,
Chennai - 600 003.

2.The Medical Director,
Southern Railway,
HQ, Railways Hospital,
Perambur,
Chennai - 600 023.

3.Senior Section Engineer/Works,
Railway Hospital,
Perambur,
Chennai - 600 023

..Respondents in both W.Ps

PRAYER in W.P.No.30793 of 2014: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to pay the sum of Rs.6,20,000/- due to the Petitioner which is outstanding.

PRAYER in W.P.No.30794 of 2014: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Ceteriori to call for the records of the second respondent relating to the impugned demand order dated 03.04.2013 in No.HQ/MD.61/III/C and quash the same.

For Petitioner : Mr.J.S.T.Vijaya Sai
in both W.Ps

For Respondents : Mr.P.T.Ramkumar
in both W.Ps

C O M M O N O R D E R

W.P.No.30793 of 2014 is filed by the petitioner seeking a writ of mandamus, to direct the respondents to pay the sum of Rs.6,20,000/- which is due to the petitioner, which is outstanding.

2. W.P.No.30794 of 2014 is filed by the petitioner seeking a Writ of Certiorari, to call for the records of the second respondent relating to the impugned demand order dated 03.04.2013 in No.HQ/MD.61/III/C and quash the same.

3. In W.P.No.30793 of 2014, it is stated that the petitioner is the licensee of the Railway Hospital Canteen at Railway Hospital, Perambur, Chennai. The hospital canteen is run for the benefit of the Railway Hospital Staff and patients and the food items are sold in a very subsidized rate. The said Railway Hospital Canteen is not run with any profit motive, as it is only for the benefit of the Railway Hospital Staffs and patients. It is stated that, despite the fact that the canteen sells food items and beverages at 1/4th cost of the normal price in IRCTC canteens, the petitioner is made to pay for everything including water charges. The Railway Hospital Canteen has not paid a sum of Rs.6,20,000/-, which is due to the petitioner. As already the food items are being sold at a low price and non payment of money by the respondent-authorities, the petitioner is seriously prejudiced. Hence, the petitioner moved for a mandamus, directing the respondents to pay Rs.6.20 lakhs.

4. In W.P.No.30794 of 2014, the petitioner is challenging the remittance of water consumption charges for running the canteen at Railway Hospital, Perambur, which was demanded by the Medical Director, Southern Railway, in letter No.HQ/MD.61/III/C dated 03.04.2013 in a sum of Rs.6,63,391/- till February 2013. The petitioner states that the Railways, which is supplying the water to the Railway Hospital Canteen, at the rate of Rs.50/- per 5000 litres, suddenly without any rhyme or reason, has increased 10 fold from Rs.50/- to Rs.500/- per 5000 litres. It is stated that the increase in water charges is not applicable to the petitioner, as per the Circular dated 11.06.2009.

5. It is stated by the learned counsel for the petitioner that the Medical Director, Railway Hospital, Perambur had issued a letter dated 26.03.2014 in No.HQ/MD.61/III/C, in which, it was recommended to consider the request sought for by the petitioner for reduction in the water charges, which was recently hiked from Rs.50 to 500 per 5000 litres.

6. The learned counsel appearing for the respondents-Railways invited the attention of this Court to the Agreement dated 31.12.2011 between the Railway Administration and the petitioner, wherein, in Clause 3 (a), it has been specifically stated as follows:-

"The Licensee shall in addition to the licence fee referred to above in para (3) pay charges for the consumption of water and electric energy at the rates that may be fixed from time to time by the Railway Administration. The amount of such water or electrical charges shall be paid by the Licensee within ten days of demand by the Railway Administration."

7. It is also pointed out therein that as per Clause 45 of the said Agreement, in case of any dispute with regard to the interpretation of any of the terms and conditions of the Agreement, the decision of the General Manager, Southern Railway shall be final and binding on the parties.

8. The petitioner, if at all aggrieved, ought to have approached the General Manager, Southern Railway, before knocking the doors of this Court, but, he has straightaway filed the above Writ Petition in W.P.No.30794 of 2014, challenging the enhanced demand for consumption of water charges.

9. It is further pointed out that the demand made by the respondents, as on 03.04.2013 was Rs.6,63,391/-, whereas as on 05.02.2015, the outstanding was Rs.9,68,549/-.

10. The petitioner (in W.P.No.30793 of 2014) has sought for a direction to the respondents to pay the sum of Rs.6,20,000/-, which is due to the petitioner and the same is not disputed by the respondents. However, it is stated that, since the due payable by the petitioner for consumption of water charges is more than Rs.9 lakhs, the amount has not yet been released.

11. In the light of the above facts, it will be open to the petitioner to approach the General Manager, Southern Railway, as per Clause 45 of the Agreement, to work out his remedies for release of the amount or even the demand of the water charges.

12. The petitioner may approach the General Manager, Southern Railway, at the earliest regarding the release of the fund due to him and also about the demand raised by the respondents as water charges. In the event the petitioner approaching the General Manager, the same may be considered on merits and appropriate order be passed on merits at the earliest.

13. With the above direction, both the Writ Petitions are disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

srn

To

- 1.The Divisional Railway Manager,
Works Branch, Chennai Division,
Chennai - 600 003.
- 2.The Medical Director,
Southern Railway,
HQ, Railways Hospital,
Perambur,
Chennai - 600 023.
- 3.The Senior Section Engineer/Works,
Railway Hospital,
Perambur,
Chennai - 600 023
- 4.The General Manager,
Southern Railway,
Chennai.

+2ccs to Mr.P.T.Ramkumar, Advocate, S.R.No.40032, 40033

W.P.Nos.30793 and 30794 of 2014 and
M.P.No.1 of 2014

SV(CO)
KKV/08/01/2021

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