

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.16129 of 2020
and
W.M.P.No.20115 of 2020
(Heard through VC)

M.Jayabalan

.. Petitioner

Vs.

- 1.The Union of India,
Represented by its Principal Secretary,
Ministry of Railways,
Rail Bhawan, New Delhi.
- 2.The Railway Board,
Represented by its Chairman,
Rail Bhawan, New Delhi.
- 3.The General Manager,
O/o. The General Manager,
Southern Railway,
Park Town, Chennai - 3.
- 4.The Senior Divisional Commercial Manager,
O/o. The General Manager,
Southern Railway,
Park Town, Chennai - 3.
- 5.The Chief Commercial Manager,
Southern Railway,
Park Town, Chennai - 3.
- 6.The Divisional Railway Manager,
Madras Zone, Southern Railway,
Park Town, Chennai - 3.

.. Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents 3 to 6 to consider petitioner's representation dated 29.05.2020 and dispose of the same within a reasonable time frame fixed by this Hon'ble Court, before implementing the propagation contemplated in the second respondent's letter No.2020-TG.IV/18/Misc/Comml Contracts dated 07.09.2020.

For Petitioner : Mr.V.R.Kamalanathan

For Respondents : Mr.P.T.Ramkumar

ORDER

The petitioner has sought for a writ of mandamus directing the Respondent Nos.3 to 6 to consider petitioner's representation dated 29.05.2020 and dispose of the same within a reasonable time frame fixed by this Court, before implementing the propagation contemplated in the second respondent's letter No.2020/TG-IV/18/Misc/Comml Contracts dated 07.09.2020.

2. The petitioner himself has stated that in view of the pandemic, there was an extension given vide communication No.2020/TG-IV/18/Misc/Comml Contracts dated 07.09.2020, treating the period from 25.03.2020 to 22.06.2020, as 'dies-non'. It is also further stated that once the contractor accepts the relief provided by the railways, they have to give an undertaking that they will not surrender the contract midway. The relief, if given by Zonal Railways, will be applicable only for contracts valid till December, 2020 and beyond.

3. However, the learned counsel appearing for the respondents, upon notice would point out that even as early as on 19.10.2020, the Divisional Railway Manager has sent a communication to the petitioner stating that the contract is closed with effect from 00:00 hrs. of 19.10.2020/20.10.2020 asking him to vacate the parking premises and also to hand over unclaimed vehicles, if any, to the Station Manager / Commercial Supervisor / Commercial In charge duly preparing a list of such vehicles.

4. The petitioner also has furnished this communication in the typed set of papers, however, the grievance of the petitioner is that the representation sent by him on 29.05.2020 making several demands including keeping implementation of revised parking fee in abeyance till regular tenders are called for, refund of all amount withheld by the Railways, etc. was not considered, while passing the order dated 19.10.2020.

5. Though the respondents have already issued the closure notice, admittedly the representation of the petitioner dated 29.05.2020 was not considered and the petitioner was not heard. Therefore, the fourth respondent is directed to consider the representation of the petitioner dated 29.05.2020 and pass a considered and reasoned order, on merits and in accordance with law, after giving him an opportunity of personal hearing or virtual hearing or otherwise or considering his written objections and after verifying the relevant documents, if any, within a period of four weeks from the date of receipt of a copy of this order. In view of the above direction, the closure notice dated 19.10.2020 is set aside.

6. Status-quo as on date should be maintained till then.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rsi

To

1.The Principal Secretary,
Union of India,
Ministry of Railways,
Rail Bhawan, New Delhi.

2.The Chairman,
The Railway Board,
Rail Bhawan, New Delhi.

3.The General Manager,
O/o. The General Manager,
Southern Railway,
Park Town, Chennai - 3.

4.The Senior Divisional Commercial Manager,
O/o. The General Manager,
Southern Railway,
Park Town, Chennai - 3.

5.The Chief Commercial Manager,
Southern Railway,
Park Town, Chennai - 3.

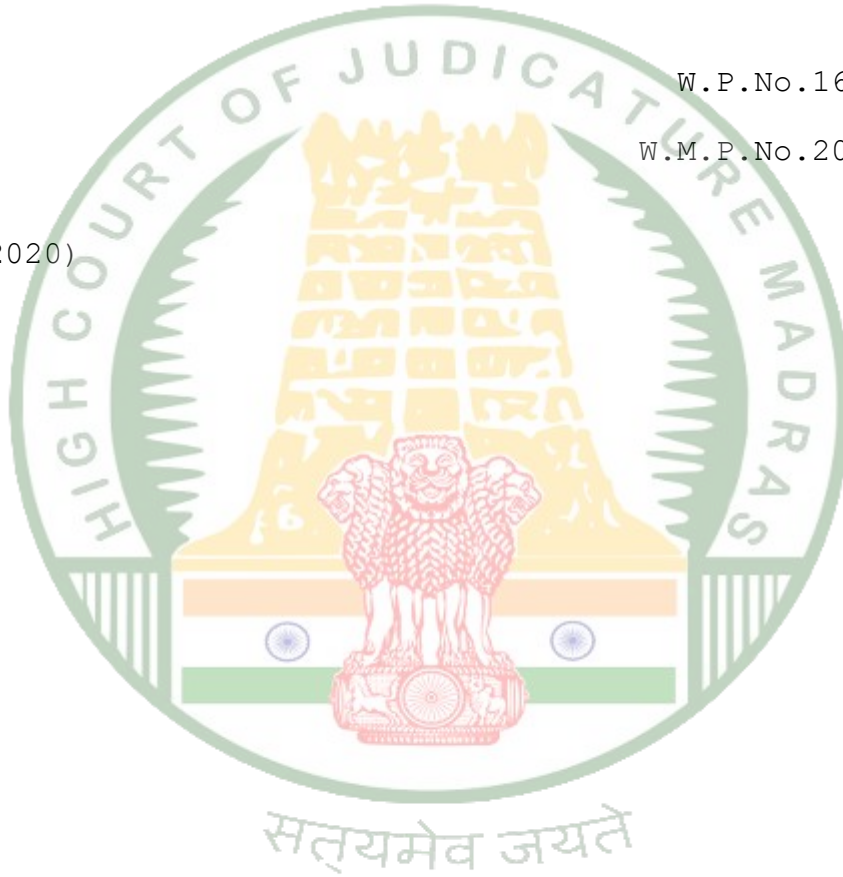
6.The Divisional Railway Manager,
Madras Zone, Southern Railway,
Park Town, Chennai - 3.

+1 CC to Mr.V.R.Kamalanathan, Advocate sr 36651.

+1 CC to Mr.P.T.Ramkumar, Advocate sr 36799

W.P.No.16129 of 2020
and
W.M.P.No.20115 of 2020

NRL (CO)
SP (04/12/2020)



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