

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

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THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.16878 of 2020
and
W.M.P.No.20938 of 2020

A.T.Thirumurthy

... 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: The Writ Petition has been filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondent Nos.3 to 6 to consider the petitioner's representation dated 29.05.2020 and dispose of the same within a reasonable time that may be 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.

For Petitioner : Mr.V.R.Kamalanathan

For Respondents : Mr.P.T.Ramkumar

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O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Mandamus to direct respondent Nos.3 to 6 to consider the petitioner's representations dated 29.05.2020 and 04.06.2020 and dispose of the same within a reasonable time that may be 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 learned counsel for the petitioner would submit that the application of the petitioner for manning the Cycle/Scooter Parking Stand at Ambattur Railway Station has been accepted by the respondents. The contract was taken up by the petitioner from 02.03.2020 for a period of 90 days, which already comes to an end on 30.05.2020. Due to out break of the pandemic, there was a total lockdown and there were no trains being operated as there was a complete stoppage. The petitioner's business of manning the parking stand is also affected as there was no passenger.

3. In the meanwhile, the second respondent had sent a communication dated 07.09.2020, as per which, 90 days relaxation in license fees was granted to the existing commercial earning operational contracts viz., Parking, pay and use toilets, STD/PCO booth, ATM, etc., treating the period between 25.03.2020 and 22.06.2020 as "dies-non". Further, relief in charging the license fee after the said period may be considered by the Zonal Railways under the existing terms and conditions of contracts which provide for addition/ modification/review in existing agreement with mutual consent, with concurrence of Finance. After receiving the above-said communication, the petitioner has filed this Writ Petition.

4. The representation was sent by the petitioner dated 29.05.2020 mooted certain proposals which would include keeping implementation of revised parking fees in abeyance and consider the implementation of the revised parking fees for the existing contractors and permit the contractors, who had already completed their contracts to remove the shed used for parking, which had been erected out of their personal funds and refund all amounts withheld by the Railways on account of payment of

GST, etc., and also revoke the Bank Guarantee given for Security Deposit and replace the same by reducing it 10% and other demands.

5. The learned counsel appearing for the respondents would invite the attention of this Court to the contract that was awarded to the petitioner dated 14.02.2020 in M/C.300/Cycles/ABU (TM). The contract is with respect to manning the vehicle parking stand at Ambattur Railway Station, which was given for a period of 90 days i.e. from 02.03.2020 to 30.05.2020. The letter of the award itself specifically states that it is a temporary contract which will be terminable if higher offers received through tender and other reasons for termination are also provided in the very same letter. The petitioner has sought for disposal of the representation based on the communication of the respondents dated 07.09.2020.

6. The learned counsel for the respondents would also point out that as per the said communication, the clauses decided by the authorities therein are applicable only for contracts which are valid till December, 2020 and beyond and the same may not be applicable to the petitioner, whose contract already comes to an end as early as 30.05.2020.

7. Be that as it may, the fourth respondent/Senior Divisional Commercial Manager is directed to consider the petitioner's representations dated 29.05.2020 and 04.06.2020 by affording him an opportunity of personal hearing or virtual hearing and consider the same on merits. The fourth respondent is directed to fix a date of hearing on 28.12.2020 and pass orders within a period of two (2) weeks thereafter. The petitioner is directed to appear before the authority on that day in person and he is at liberty to submit his written submissions.

With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1. The Principal Secretary,
Union of India,
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,
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O/o.The General Manager,
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5. The Chief Commercial Manager,
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6. The Divisional Railway Manager,
Madras Zone, Southern Railway,
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+1 cc to Mr.P.T.Ram Kumar Advocate sr40911

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