

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.18386 of 2020

and

W.M.P.No.22776 of 2020

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

... Respondents

COMMON PRAYER: The Writ Petitions have 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/Comm1 Contracts dated 07.09.2020.

For Petitioner : Mr.V.R.Kamalanathan
For Respondents : Mr.P.T.Ram Kumar

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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 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/Comm1 Contracts dated 07.09.2020.

2. The petitioner was the successful tenderer for manning the Cycle/Scooter Parking Stand at Walajah Road Site 2 Railway Station. The contract was taken up by the petitioner from 09.06.2017 for the period of three years, which comes to an end on 08.06.2020. Due to outbreak 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 by 10% and other demands.

5. The learned counsel for the respondents would submit that the closure notice was issued on 19.10.2020. He would further submit that the fourth respondent is empowered to decide the above demands raised by the petitioner.

6. In such circumstances, the fourth respondent/Senior Divisional Commercial Manager is directed to consider the petitioner's representation dated 29.05.2020 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 fourth respondent on that day to make his 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.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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, सत्यमेव जयते
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.

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.40913

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