



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.09.2020

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.15817 of 2019

WEB COPY

Rasi Battery Works, its Proprietor,
G.Vidhyadevi, W/o.Ganapathy Veluchami,
Khayamiyan Hr.Sec.School Complex,
Tvs Tollgate, Trichy Rep by Her Power Agent,
M.Devadoss, S/o.Marya Selvam,
Working at Rasi Battery Works,
Khajamiyan Higher Secondary School Complex,
Tvs Tollgate, Tiruchirappalli.

... Petitioner

Vs.

1. The Post Master General,
Central Region, Tiruchirappalli - 620 001.

2. The Chief Post Master General,
Tamil Nadu Circle, Chennai 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pay Rs.12,16,700/- to the petitioner on the basis of the petitioner's representation dated 26.03.2019.

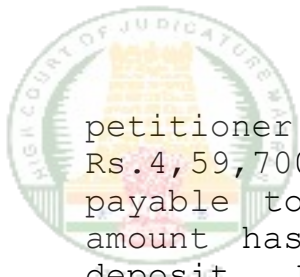
For Petitioner	: Mr.S.Mahesh Babu
For Respondents	: Mr.K.Sankararaman, Standing Counsel.

ORDER

This writ petition is filed seeking for a direction to direct the respondents to pay Rs.12,16,700/- to the petitioner on the basis of the petitioner's representation dated 26.03.2019 .

2.The learned counsel appearing for the petitioner submitted that the petitioner is doing sales and services of batteries. The petitioner has participated in the tender conducted by the first respondent by notice TCB/9-30/AMC/2006/R dated 16.11.2009 for annual maintenance and service contract for all divisions of Central Region for one year. The petitioner was a successful bidder in the aforesaid tender. In this regard, agreement was entered into between the petitioner and the respondents. The petitioner has complied with all the conditions mentioned in the tender conditions.

3.The learned counsel for the petitioner further submitted that the respondent has not settled the claim for service done by the



petitioner for 28 and 31 invoices, which comes to the tune of Rs.4,59,700/- and Rs.6,57,000/- respectively. The total amount payable to the petitioner comes to Rs.11,16,700/-. The aforesaid amount has to be paid by the respondents including the security deposit. But they did not settle the aforesaid amount. The petitioner made a representation to the respondent to settle the amount. No response is forth coming. Hence the petitioner filed this present writ petition.

4. The learned counsel for the respondents has filed a counter-affidavit. The aforesaid claim made by the petitioner is denied by the respondents. In the counter affidavit, it is stated that the petitioner was repeatedly reminded by the first respondent to return the UPS/Accessories taken away from Post Office premises on various dates viz., 31.05.2012, 13.06.2012, 17.07.2012, 29.08.2012, 17.09.2012, 20.11.2018 and 07.05.2013. After repeated reminders from first respondent only, the petitioner returned all RPSS/Accessories taken away by them without rectifying the hardware issues on "as was is" condition.

5. Further, it is stated in the counter-affidavit that as per para 24 of General terms and conditions (annexure 1) for "Notice inviting Tender for Annual Maintenance and Service Contract for the UPS", if a dispute arises out of or in connection with this contract, or in respect of any defined legal relationship associated therewith or derived there from, the parties agree to submit that dispute under the ICADR Arbitration Rules 1996. The authority to appoint the arbitrator(s) shall be the International Centre for Alternative Dispute Resolution. The international centre for Alternative Dispute Resolution will provide Administrative services in accordance with the ICADR Arbitration Rules 1996.

6. Heard the learned counsel on either side and also perused the materials placed on records.

7. Considering the above submissions, this Court is of the view that the petitioner can seek remedy only before the Arbitrator. This Court cannot go into the aspect under Article 226 of the Constitution of India. Hence, this Writ petition is not maintainable. Accordingly, this Writ Petition is dismissed. However, liberty is granted to the petitioner to approach the appropriate forum. No costs.

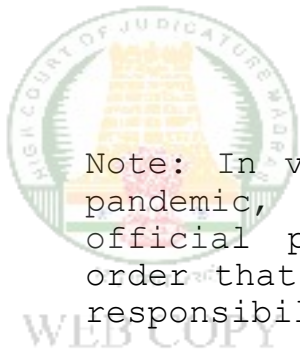
Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1. The Post Master General,
Central Region, Tiruchirappalli - 620 001.
2. The Chief Post Master General,
Tamil Nadu Circle, Chennai 600 002.

+1 CC to Mr.S. MAHESH BABU, Advocate SR-16603.

W.P. (MD) No.15817 of 2019
09.09.2020

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