

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.13303 of 2017

and

MP Nos.14302 and 14303 of 2017

R.Arunachalam

... Petitioner

Vs

The Divisional Railway Manager,
Commercial Branch,
Park Town,
Chennai - 600 003.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari to call for the letter dated 11.05.2017 in Letter No.M/C.300/Cycles/MS and quash the same.

For petitioner ... Mr.S.Veeraraghavan

For respondent ... Mr.P.T. Ramkumar

ORDER

The petitioner has challenged the impugned order dated 11.05.2017 passed by the respondent calling upon the petitioner to pay the pending dues amounting to Rs.41,00,314/- on or before 16.05.2017, failing which, the respondent has threatened the petitioner that the Security deposit of Rs.71,00,000/- along with tender deposit of Rs.9, 02,450/- will be forfeited by them without any further notice in accordance with Clause 28(i) of the agreement entered into between the petitioner and the respondent.

2. Heard Mr.S.Veeraraghavan, learned counsel for the petitioner and Mr.P.T.Ramkumar, learned Standing counsel for the respondent.

3. Admittedly, the petitioner has given a representation to the respondent on 27.04.2017 requesting them to adjust the pending dues from and out of the Security deposit available with the respondent.

4. The learned Standing counsel for the respondent, on instructions, would submit that as per Clause 37 of the agreement entered into between the petitioner and the respondent, the representation for adjustment of the pending dues of the petitioner from and out of the Security deposit will have to be given to the Chief Commercial Manager, Southern Railways Administration. According to him, since the earlier representation given by the petitioner was not in accordance with Clause 37 of the said agreement and was not given to the Chief Commercial Manager, Southern Railways Administration, the same has not been considered by the respondent. He would further submit on instructions, that once a fresh representation is given by the petitioner to the Chief Commercial Manager, Southern Railways Administration, the same will be considered by him, on merits and in accordance with law.

5. Clause 37 of the agreement entered into between the petitioner and the respondent reads as follows :

37. If any dispute, difference or question shall arise between the Railway Administration and the Licensee as to the respective rights, duties and obligations of the parties hereto or as to the constructions or interpretations of any of the terms and conditions of the Agreement as to its applications (except the decision whereof it herein expressly provided for) then the same shall be referred to the Chief Commercial Manager of the Southern Railway Administration whose decision shall be final.

6. Admittedly, as seen from the affidavit filed in support of this writ petition, the representation seeking for adjustment of the pending dues of the petitioner with the Security deposit has not been given by the petitioner to the Chief Commercial Manager, Southern Railways Administration, in accordance with Clause 37 of the said agreement.

7. Hence, this Court directs the petitioner to give a fresh representation to the Chief Commercial Manager, Southern Railways Administration, requesting him to adjust the pending dues from and out of Security deposit amount paid by him at the time of entering into the contract, within a period of one week from the date of receipt of a copy of this order. On receipt of the said representation, the Chief Commercial Manager, Southern Railways Administration shall pass final orders on merits and in accordance with law, within a period of four weeks, thereafter. However, it is made clear that no coercive steps shall be taken against the petitioner by the respondent pursuant to the impugned order dated 11.05.2017 till final orders are passed by the Chief Commercial Manager, Southern Railways, Administration.

8. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To

1.The Divisional Railway Manager,
Commercial Branch,
Park Town,
Chennai - 600 003.

2. The Chief Commercial Manager,
Southern Railways Administration,
Chennai.

+1 cc to M/s.J.Johnson, Advocate Sr.No. 17974

+1 cc to M/s.P.T.Ramkumar, Advocate Sr.No. 18128

W.P. No.13303 of 2017

PCH(CO)
RMP(09/04/2021)