



W.P.No.15540 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.No.15540 of 2015

and

M.P.No.1 of 2015

Wellington Cantonment Board,
Represented by its Chief Executive Officer,
Wellington,
Tamil Nadu – 643 232.

... Petitioner

Vs

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

2. The Divisional Railway Manager,
Divisional Office Works Branch,
Southern Railways,
Salem.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to pay sum of Rs.62,09,056/- being the arrears and current demand towards the Service Charges payable for the period from 01.04.1990 to 31.03.2014, and direct to pay further service charges as per Section 109 of the Cantonments Act, 2006.



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For Petitioner : Mr.M.Vijayan
for King and Partridge

For Respondents : Mr.P.T.Ramkumar
Standing Counsel for Railways

ORDER

The relief sought for in the writ petition is to direct the second respondent to pay a sum of Rs.62,09,056/- being the arrears and current demand towards the Service Charges payable for the period from 01.04.1990 to 31.03.2014, and direct to pay further service charges as per Section 109 of the Cantonments Act, 2006.

2. The petitioner is Wellington Contonment Board and the board was established in the year 1853 and is governed by the Cantonments Act, 2006. Cantonment is deemed to be a municipality for the purpose of implementing the Central Government Schemes of social welfare, public health, hygiene, safety, water supply, sanitation, urban renewal and education.



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3. The grievance of the writ petitioner is that the respondent Southern Railways has not paid the service charges for utilizing the services of the petitioner Cantonment Board, since the Wellington Railway Station in Nilgiris is evinced within the jurisdiction of the Cantonment area. For operating railways in Wellington area, the respondents have not paid the service charges. The claim made in this regard by the petitioner went in vain and thus, they have constrained to institute the present writ petition.

4. Mr.P.T.Ramkumar, learned Standing Counsel (Railways) appearing on behalf of the respondents made a submission that they are not liable to pay any such charges, since the petitioner is not providing any services to the respondent southern railway. In this regard, paragraph 3 and 8 of the counter affidavit reads as under:-

“3. I submit that Wellington Cantonment Board does not provide any services in Railway Station like supply of water, electricity, conservancy/sewage disposal services warranting railway administration for payment of service charges. In the affidavit of the petitioner it is not stated as what type of services offered to railways for demanding payment of



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service charges. The approach roads for a shorter distance leading to railway station at Wellington and the street lights provided therein are only for the benefit of persons residing in defence establishment. Only Railways is providing service for the benefit of Cantonment residents by maintaining the Wellington Railway Station.

8. I submit that as referred in the judgment of Hon'ble Supreme Court in *Rajkot Municipal Corporation and others vs. Union of India*, the Wellington Cantonment Board has not executed any agreement with railways in regard to service charges. The petitioner has not resorted to dispute resolution mechanism by making reference to a mediation committee as mentioned in the judgment of the Hon'ble Supreme Court. Without executing any agreement with the railways for service charges and without conducting any discussions/conciliation with railways to resolve the disputes, the petitioner has straight away filed this writ petition before this Hon'ble Court.”

5. It is not in dispute between the parties that the issues raised in this regard were considered by the Hon'ble Apex Court in the case of *Rajkot Municipal Corporation vs. Union of India*, reported in (2013) 14 SCC 599.

6. Pursuant to the judgment of the Hon'ble Apex Court, the case of the petitioner and the respondent was referred to the Mediation



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Committee chaired by the Director (NULM) and the meeting was convened on 19.01.2023. The parties have appeared and adjudicated the issues and the Mediation Committee agreed on the following transactions and disposed of the matter as under:-

“6.1 After entering into service agreement, service charge is payable by the Southern Railway according to the limit prescribed in the Hon'ble Apex Court's Judgment dated 19.11.2009 in Rajkot Municipal Corporation vs. UoI case depending on the quantum of service being utilized from the prospective effect.

6.2 In the case of no service being provided by Wellington Cantonment Board, the Southern Railway is liable to pay at least minimum service charge at the rate of 33 and 1/3% of property tax for the establishment owned or occupied by the Southern Railway with retrospective effect i.e. 1990 onwards.

6.3 The WCB will levy service charges, as decided in the service agreement, on the buildings/establishments of Southern Railway and the land on which they are erected along with the inclusion of railway tracks lying under the WCB boundaries.

6.4 No service charges shall be paid for the vacant land of Southern Railway falling within the jurisdiction of Wellington Cantonment Board.”



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7. In view of the fact that the Mediation Committee has undertaken the process of adjudication between the parties and arrived a conclusion, the parties are bound by that and accordingly they have to execute an agreement for all purposes.

8. In the event of any further disputes between the parties, the parties have to approach the Mediation Committee for clarification or further orders or otherwise.

9. With these observations and directions, the writ petition stands disposed of. No cost. Consequently, connected miscellaneous petition is closed.

19.06.2023

Index : Yes/ No
Neutral Citation : Yes/No
Speaking/Non-speaking Order
rgm



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To

1. Union of India,
Ministry of Railways,
Rail Bhawan,
New Delhi.
2. The Divisional Railway Manager,
Divisional Office Works Branch,
Southern Railways,
Salem.

S.M.SUBRAMANIAM, J.



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