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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.03.2023

Pronounced on : 22.06.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.23040 of 2021
and
WMP(MD)No.19518 of 2021

K.Senthilvel

... Petitioner

Vs.

- 1.The Regional Manager,
Central Warehousing Corporation,
(A Government of India undertaking),
Regional Office,
No.4, North Avenue,
Srinagar Colony, Saidapet,
Chennai – 600 015.
- 2.The Assistant General Manager (Comm.),
Central Warehousing Corporation,
(A Government of India undertaking),
Regional Office,
No.4, North Avenue,
Srinagar Colony, Saidapet,
Chennai – 600 015.
- 3.The Superintendent,
Central Warehousing Corporation,
(A Government of India undertaking),
Regional Office, No.4, North Avenue,
Srinagar Colony, Saidapet,
Chennai – 600 015.

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to settle a sum of Rs.23,74,921/- (Rupees Twenty Three Lakhs Seventy Four Thousand Nine Hundred and Twenty One Only) pending due towards H and T bills and Security Deposits as proposed in the communication of the respondent dated 07.08.2021 along with interest at the rate of 12% per annum to and in favor of the petitioner on the basis of the representations of the petitioner dated 01.10.2021 and 19.10.2021 within a time frame as fixed by this Court.

For Petitioner : Mr.B.Saravanan, Senior Counsel
for Mr.D.Kirubakaran

For Respondents : Mr.R.Thirunavukkarasu

ORDER

Thiru.P.Kumaravel, the father of the petitioner was a Handling and Transport Contractor. The respondent corporation appointed him as their Handling and Transport Contractor at Central Warehousing Corporation, Virudhunagar and Madurai. He was discharging his contractual obligations. He passed away on 03.09.2018. Leaving behind the petitioner, his siblings and his mother as the surviving legal heirs. The stand of the petitioner is that the corporation owes to pay a sum of Rs.53,65,932/- towards contractual dues. The stand of the corporation



contract. Since the petitioner is bound by the tender conditions, remedy cannot be sought outside the scope of the contract. The learned standing counsel pressed for dismissal of this writ petition.

3.I carefully considered the rival contentions and went through the materials on record. Central Warehousing Corporation is a Government of India Undertaking. It is a State instrumentality. No doubt, the subject matter pertains to the realm of commercial contract. But a State instrumentality must conduct all its transactions in a fair manner. The sweep of Article 14 of the Constitution of India will embrace even the contractual transactions of Central Warehousing Corporation which was established by the Warehousing Corporations Act, 1962. It is true that there is considerable discrepancy between the claim of the petitioner and the stand of the respondents. The writ court cannot venture into disputed facts and claims. They may have to be resolved either before the jurisdictional civil Court or through arbitral process, if available. But the petitioner is not calling upon this Court to direct the corporation to honor his claim in its entirety. Far from it. What is demanded is only payment of the admitted amount. Even, it has been admitted in the counter affidavit that the net payable amount to the petitioner comes to



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Rs.23,74,921/- as per the respondents books of account. The respondents are not being fair when they insist that unless “No Demand Certificate” is submitted, this admitted amount would not be paid. A contractor after completing his contract would be badly in need of funds. This precarious condition of the contract ought not to be exploited by the State instrumentality. In labour jurisprudence it has been observed that the State must conduct itself as a model employer. This ideal standard is applicable even in commercial transactions. Withholding the admitted amount is clearly unreasonable, arbitrary and unfair. Article 14 of the Constitution of India has been breached in this case. Any aggrieved individual is entitled to seek legal and judicial redress in respect of their grievances. This is a fundamental right. By insisting that “No Demand Certificate” must be signed by all the legal heirs, the corporation is effectively taking away the fundamental right of the petitioner to seek judicial redress. Elsewhere I have held that if due to pressure of the situation, the contractor signs on the dotted lines that he has no further claim on the department, that would still not operate as an estoppel. The petitioner must be paid the admitted dues and left free to pursue his remedies for establishing his claim that a further amount is due and payable to him.



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4.The respondents are directed to pay the admitted amount of Rs.23,74,921/- with interest at the rate of 6% per annum from 01.01.2022 till the date of payment. This writ petition is allowed. No costs. Connected miscellaneous petition is closed.

22.06.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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