

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN
WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA, 1945
WP(C) NO. 1385 OF 2024

PETITIONER:

JOHN JOSEPH, AGED 60 YEARS, S/O JOSEPH,
KOTTUPALLIL PARACKAL HOUSE, ALLIANCE STREET,
MANNUTHI P.O, THRISSUR DISTRICT, PIN - 680651

BY ADVS.
K.SANEESH KUMAR
V.B.SANTHINI

RESPONDENTS:

- 1 SOUTHERN RAILWAY, REPRESENTED THROUGH ITS, SENIOR
DIVISIONAL COMMERCIAL MANAGER, THIRUVANANTHAPURAM
CENTRAL, THIRUVANANTHAPURAM DISTRICT, PIN - 695014
- 2 SENIOR DIVISIONAL COMMERCIAL MANAGER
THIRUVANANTHAPURAM CENTRAL, THIRUVANANTHAPURAM
DISTRICT, PIN - 695014
- 3 THE UNION OF INDIA, REPRESENTED BY THE SECRETARY,
MINISTRY OF RAILWAYS, (RAILWAY BOARD) CENTRAL
SECRETARIAT, NEW DELHI, PIN - 110001

SMT.MINI GOPINATH, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Even though various assertions, averments and allegations are made and urged in this Writ Petition, when this matter was called today, the petitioner confined his plea that the 2nd respondent – Senior Divisional Commercial Manager, be directed to take up Ext.P8 representation preferred by him and dispose it of, within a time frame to be fixed by this Court

2. In response to the afore submissions made by Sri.Saneesh Kumar K. – learned counsel for the petitioner, Smt.Mini Gopinath – learned Central Government Counsel, submitted that if this Court is only inclined to direct Ext.P8 representation of the petitioner to be taken up and disposed of, there does not appear to be any legal impediment in doing so; but prayed that this Court may not make any affirmative declarations on his entitlement to any relief and leave it to the competent Authority to take a final decision as per law.

In the afore circumstances, without entering into the merits of any of the rival contentions, I allow this Writ Petition and direct the

2nd respondent to take up Ext.P8 representation of the petitioner and to dispose of the same, after affording him an opportunity of being heard; thus culminating in an appropriate order and necessary action thereon, as expeditiously as is possible, but not later than one month from the date of receipt of a copy of this judgment.

Needless to say, until such time as the afore exercise is completed and the resultant order communicated to the petitioner, the interim order granted by this Court on 12.01.2024 will continue to be in effect.

At this time, the learned counsel for the petitioner – Sri.Saneesh Kumar K., submitted that the stall in question has now been closed by the Railway Authorities and that during the interregnum, till the afore exercise is completed, they may be directed to allow his client to open it, undertaking that he will pay any license fee/usage charges for the same, as may be fixed by them.

This, of course, is a matter to be decided by the competent Authority and therefore, in addition to the afore directions, I direct the 2nd respondent to consider the afore plea of the petitioner also

as an interim measure, within a period of one week from the date of receipt of a copy of this judgment.

RR

Sd/-
DEVAN RAMACHANDRAN
JUDGE

APPENDIX OF WP(C) 1385/2024

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE LETTER OF AWARD ISSUED BY THE SOUTHERN RAILWAY DATED 21.2.2017.
- Exhibit P2 A TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE PETITIONER AND THE 1ST RESPONDENT ON 21.11.2017.
- Exhibit P3 A TRUE COPY OF THE REPRESENTATION SEEKING RENEWAL OF LICENSE SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 8.6.2023.
- Exhibit P4 A TRUE COPY OF THE COMMERCIAL CIRCULAR NO. 22 OF 2017 DATED 15.3.2017 ISSUED BY THE MINISTRY OF RAILWAYS (RAILWAY BOARD).
- Exhibit P5 A TRUE PHOTOCOPY OF THE JUDGMENT IN WP(C) .NO.20049 OF 2023 DATED 20.6.2023.
- Exhibit P6 A TRUE COPY OF THE LETTER DATED 9.8.2023 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
- Exhibit P7 A TRUE COPY OF THE LETTER DATED 13.12.2023 REJECTING THE APPLICATION FOR RENEWAL OF PETITIONER'S LICENSE
- Exhibit P8 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 8.1.2024.
- Exhibit P9 - A TRUE COPY OF THE JUDGMENT BY THE HONOURABLE SUPREME COURT IN WRIT PETITION(C)NO.373/2017DATED 30.10.2018.
- Exhibit P10 A TRUE COPY OF THE INTERIM ORDER PASSED IN WP(C)13809/2018 BY THE HIGH COURT OF DELHI DATED 15.3.2019
- Exhibit P11 A TRUE COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DATED 21.5.2019.
- Exhibit P12 A TRUE COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DATED 27.8.2019.
- Exhibit P13 A TRUE COPY OF THE LETTER NO.2016/TG-III/600/01 ISSUED BY THE GOVERNMENT OF INDIA/ MINISTRY OF RAILWAYS/ RAILWAY BOARD DATED 13.12.2021
- Exhibit P14 A TRUE COPY OF THE INTERIM ORDER PASSED IN WP(C) 34185 OF 2023 DATED 17.10.2023 BY THIS HONOURABLE COURT.
- Exhibit P15 PETITIONER HERewith PRODUCES THE COPY OF THE LETTER ISSUED BY THE NORTHERN RAILWAY ISSUED TO THE SENIOR DIVISIONAL COMMERCIAL

- MANAGER DATED 29.8.2019.
- Exhibit P16 A TRUE COPY OF THE LETTER ISSUED BY THE NORTH CENTRAL RAILWAY DATED 12.6.2019.
- Exhibit P17 A TRUE COPY OF THE LETTER ISSUED BY THE SOUTH EASTERN RAILWAY DATED 28.5.2019.
- Exhibit P18 A TRUE COPY OF THE LETTER ISSUED BY THE EAST COAST RAILWAY DATED 3.6.2019.
- Exhibit P19 A TRUE COPY OF THE LETTER ISSUED BY THE EASTERN RAILWAY TO ONE CHANDAN RAJ DATED 8.12.2022.
- Exhibit P20 A TRUE COPY OF THE TENDER NOTIFICATION ISSUED BY THE 2ND RESPONDENT MENTIONING THE AUCTION DATE OF THE TENDER IS ON 15.1.2024.