

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 21182 OF 2010

Between:

B. Shravan Kumar, S/o. B. Harinarayana Contractor R/o. 8-3-667, Engineers Colony, Ameerpet, Hyderabad.

...PETITIONER

AND

1. The South Central Railway (SCR), represented by its General Manager, Rail Nilayam, Secunderabad.
2. The Chief Engineer (Works) South Central Railway, Secunderabad.
3. The Divisional Engineer (Estates), Hyderabad Division, South Central Railway, Secunderabad.
4. The Senior Divisional Coordination, Hyderabad Division, South Central Railway, Secunderabad.
5. The Senior Divisional Finance Manager, Hyderabad Division, South Central Railway, Secunderabad.
6. The Senior Divisional Finance Manager, Secunderabad, South Central Railway, Secunderabad.
7. The Commissioner of Labour, Government of A.P., T. Anjaiah Bhavan, RTC X Road, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ order or direction specially one in the nature of Writ of Mandamus declaring the impugned memo No.W.148/1/9/(Vol.IV) dated 03.03.2009 on the file of the Chief Engineer (Works), South Central Railways, Secunderabad - 2nd respondent and the action of the respondents in unilaterally deducting 1% Labour Cess from the outstanding bills of the petitioner under the Agreement No. 04/DEN/Estates/HYB, dt. 21.7.2010 under the provisions of Building and Other Construction Workers Welfare Cess Act, 1996 and Rules made thereunder as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents not to recover labour cess amount from the bills of the petitioner

I.A. NO: 1 OF 2010(WPMP. NO: 26956 OF 2010)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased direct the respondents to pay the amounts under the bills payable to the petitioner in respect of Agreement No. 04/DEN/Estates/HYB, dt. 21.7.2010, without deducting the Labour Cess @ 1% pending disposal of W.P.

I.A. NO: 1 OF 2013(WPMP. NO: 2814 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to modify the interim orders dated.29.08.2010 in WPMP No. 26956 of 2010 in WP No.21182 Of 2010 by permit the petitioners herein to deduct the 1% cess component and keep the amount with the Railways

Counsel for the Petitioner: SRI. L PRABHAKAR REDDY

Counsel for the Respondent Nos.1to6: ANJALI AGARWAL

Counsel for the Respondent No.7: GP FOR LABOUR

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE C. V. BHASKAR REDDY

WRIT PETITION No.21182 of 2010

ORDER:

This Writ Petition is filed praying this Court to declare the impugned memo No.W.148/1/9/(Vol.IV), dated 03.03.2009 on the file of the Chief Engineer (Works), South Central Railways, Secunderabad-2nd respondent and the action of the respondents in unilaterally deducting 1% Labour Cess from the outstanding bills of the petitioner under the Agreement No.04/DEN/Estates/HYB, dt.21.7.2010 under the provisions of Building & Other Construction Workers Welfare Cess Act, 1996 and Rules made thereunder as illegal, arbitrary, and violative of principles of natural justice and consequently, prayed to direct the respondents not to recover labour cess amount from the bills of the petitioner and for other appropriate reliefs.

2. It is stated that the petitioner is a registered Contractor in the South Central Railway and undertaking various contract works of the respondent authorities. The petitioner was selected and awarded contract works vide Agreement No.04/DEN/Estates/HYB, dt.21.07.2010 and the stipulated

period for completion of the said contract is prescribed as six months.

3. The grievance of the petitioner is that the respondents are not having any power to deduct any amount of cess from the bills of the petitioner under the provisions of Building and Other Construction Workers Welfare Cess Act, 1996 (Act 28 of 1996).

4. It is stated in the affidavit that questioning the very same impugned memo, various writ petitions have been filed before this Court *vide* W.P.No.7873 of 2009 and batch and W.P.No.11269 of 2009 and batch.

5. Smt.Anjali Agarwal, learned counsel for the respondents submitted that the issue raised in this writ petition is squarely covered by the common order passed by this Court in W.P.No.10601 of 2011 and batch, dated 24.11.2022 and therefore, the present writ petition may be disposed of in terms of the said order. She also produced a copy of the said common order.

6. This Court, after hearing all concerned, dismissed W.P.No.10601 of 2011 and batch *vide* common order dated 24.11.2022 and the operative portion of the said order reads thus:

"21. As discussed above, *vide* proceedings dated 03.03.2009 i.e. Chief Engineer, Works of South Central Railway has narrated the entire facts and also G.O.Ms.No.57, dated 26.06.2007 issued by respondent No.2 constituting Welfare Board directing all the Officers of Central Government and State Government for recovery the building cess. He has also referred the judgments in **M/s. Cormandel Prestcrete Private Limited**¹ and the Delhi High Court in its judgment dated 28.02.2007. He has also categorized all the cases into two. Referring to the same, *vide* proceedings, dated 03.03.2009, respondent No.2 has instructed all the Divisions of South Central Railways to work out the cess to be collected from contractors from the agreements in force on or after 26.06.2007 and also from the agreements in which work is completed but final bills are yet to be drawn as on date and take immediate necessary action to recover the amounts from the contractors' bills. Thus, there is no error in the same. It is a reasoned order/instructions issued by respondent No.2.

22. Viewed from any angle, the petitioners failed to make out any ground to interfere with the aforesaid proceedings and, therefore, the writ petitions fails and the same are liable to be dismissed."

7. In view of the above, this Writ Petition is dismissed in terms of the common order passed by this Court in W.P.No.10601 of 2011 and batch, dated 24.11.2022. There shall be no order as to costs.

¹ 2011 (5) ALT 708

As a sequel thereto, miscellaneous petitions, if any,
pending shall stand closed.

SD/- V. KAVITHA
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. One CC to SRI. L. PRABHAKAR REDDY, Advocate [OPUC]
2. One CC to SRI. P. BHASKAR, Advocate [OPUC]
3. One CC to Ms. ANJALI AGARWAL, Advocate [OPUC]
4. Two CCs to GP FOR LABOUR, High Court for the State of Telangana. at Hyderabad [OUT]
5. Two CD Copies

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HIGH COURT

DATED:26/09/2024

ORDER

WP.No.21182 of 2010



DISMISSING THE WRIT PETITION WITHOUT COSTS

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0014/11/2024