

(2022) 01 PAT CK 0032

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 10773 Of 2020

Sujeet Kumar Alias Sujeet Kumar Barbaria

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 11-01-2022

Acts Referred:

Citation : (2022) 01 PAT CK 0032

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Gautam Kumar Kejriwal, Dr. K. N. Singh

Final Decision : Disposed Of

Judgement

Petitioner has prayed for the following relief(s):

â??(a) For issuance of a writ in the nature of certiorari for quashing of the notice dated 17/21.12.2019 whereby a demand for license fee with

increment from retrospective effect (from 01.04.1995 till 2019-2020) has been made in direct contravention of the relevant guidelines issued by the

respondent Railway Board from tune to time ;

(b). For issuance of a writ or order or direction restraining the respondents from any action for recovery of the amount so demanded by way of the

impugned letters and also for restraining the respondents from any other consequential action as a result of non-payment of the amount so demanded

through the impugned letter.

(c) For holding and a declaration that the revision of license fee can be done by the respondents only in accordance with clause 7 of the Railway

Board's letter no. 2005/LML/18/8 dated 10.02.2005;

(d) For holding and a declaration that there can't be a retrospective revision of license fee with effects of enhancement so as to hold the petitioner

liable for payment of the difference which is contrary to and violative of the guidelines issued by the respondent Railway Board;

(e) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case.â??

Learned counsel for the petitioner prays that the present matter be disposed of in terms of the order dated 30.11.2021 passed by a Bench of this Court

in C.W.J.C. No. 10606 of 2020 titled as Pradeep Kumar Drolia (caretaker of the State of deceased holder Vijay Kumar Agrawal). Order dated

30.11.2021 is reproduced as under:-

â??Heard learned counsel for the parties.

The issue relates to demand having been made by the respondent Railways with regard to licence fee with an increment thereon from a retrospective effect.

Learned counsel are ad idem that the present case is squarely covered by a judgment dated 04.11.2019 rendered by a learned Single Judge of this

Court in CWJC No. 18109 of 2018 (Vijay Sah v. Union of India and Others) as also by a judgment dated 06.11.2020 rendered by a learned Single

Judge of this Court in CWJC No. 8604 of 2020 (Bharat Kumar Agarwal @ Bharat Kumar vs. The Union of India and Others) and another analogous

cases.

We, thus, dispose of the instant case with the same direction and observation as has been made in the aforesaid judgment dated 04.11.2019 (supra)

and 06.11.2020 (supra).â??

However, we are of the considered view that the matters have to be decided in the light of the judgment rendered by Honâ??ble the Apex Court in

Central Organisation for Railway Electrification Versus ECI-SPIC-SMO-MCML (JV) a Joint Venture Company, (2020) 14 SCC 712.

Learned counsel for the parties state that they have no objection to the matters being disposed of in terms of the ratio laid down in Central

Organisation for Railway Electrification (Supra). However, with vehemence, learned counsel for the petitioner states that till such time the arbitrator is

appointed, respondent should not take any coercive action against petitioner, including initiating proceedings for eviction and realization of arrears of

licence fee.

Well, we have no difficulty in accepting such prayer, more so, when the parties are ad idem of taking recourse to the Mechanism provided under the

agreement, and the matter adjudicated in the light of the principles laid down by Honâ??ble the Apex Court in Central Organisation for Railway

Electrification (supra).

As such, the writ petition is disposed of in the following mutually agreeable terms:-

(a) The petitioner shall approach the respondents, invoking the arbitration clause and the respondents shall act in terms of the law down by

Honâ??ble the Apex Court in Central Organisation for Railway Electrification (Supra).

(b) Till such time the arbitrator is appointed, no coercive action shall be taken against the petitioner, either for his eviction or realization of any amount

towards arrears of license fee.

(c) With the appointment of the arbitrator, it shall be open for the parties to seek extension of the order during the period of the arbitration

proceedings.

(d) The petitioner shall continue to pay the amount in term of the original agreement (pre existing rate of the license fee).

Interlocutory Application(s), if any, shall stand disposed of.