



CWP-25814-2022

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-25814-2022

Date of decision : March 03, 2025

M/s Pawan Kumar Khanna

....Petitioner

Versus

Senior Divisional Commercial Manager, Ferozpur Cantt and ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Narender Pal Bhardwaj, Advocate, for the petitioner

Mr. Somesh Gupta, Advocate, for the respondents

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, prayer is made for issuance of mandamus upon the respondents to release the payment of balance of advance license fee paid by the petitioner after charging/deducting license fee @ 4.59% to be charged for the period from 27.3.2021 to 9.5.2021 (equivalent to the footfall for the said period i.e. 4.59% due to 2nd wave of Covid-19), along with interest @ 12% per annum, till its realization. The petitioner has further prayed for issuance of directions for quashing of letter dated 29.9.2021 (Annexure P/1), issued by respondent No. 1, i.e. Senior Divisional Commercial Manager, whereby the said respondent has refused to refund the advance license fee, deposited by the petitioner.

2. The facts upon which there is no wrangle are that the petitioner was allotted the parking contract for three months which has been commenced from 5.2.2020 to 4.5.2020. In pursuance of the allotment of



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contract, the petitioner had deposited Rs 21,07,000/- along with GST @ 18%.

3. Thereafter, on account of Covid-19 pandemic, lock down was imposed from 24.3.2020 to 14.5.2020, which was extended till 31.5.2020. Since the petitioner was only able to carry out his parking contract/work, for about 49 days out of total period of 90 days of the contract, therefore, vide letter dated 22.3.2021, the petitioner was directed to start the work for the remaining period within 5 days, and thereupon, the petitioner resumed its work on 27.3.2021, and completed the period of contract uptill 7.5.2021. The petitioner made representation to the Railway Authority concerned, to grant the refund of the license fee in accordance with the concession granted to the other catering contractors, as there was a significant drop in the footfall. The request made by the petitioner was processed, and the Senior Divisional Commercial Manager, Northern Railway, Firozpur sought clarification vide letter dated 23.7.2021, from the Deputy Chief Commercial Manager, Northern Railway, New Delhi, as to whether, the license fee for the extended period is payable in terms of the executed agreement or is it payable as per the relief considering a decline in the footfall due to Covid-19 pandemic.

4. It is submitted by the learned counsel for the petitioner that aforesaid clarification has never been answered, which propelled the petitioner to file the instant petition.

5. Furthermore, while filing the reply to the instant petition, the stand is taken that since the petitioner has completed the period of contract,

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therefore, the petitioner is not entitled to seek refund in view of decrease in the footfall. No refund was granted to any contractor, in view of the Railway Board's policy guidelines.

6. This Court has considered the rival contentions, as made by the parties concerned, and is of the considered view that since no action has been taken by the Deputy Chief Commercial Manager, Northern Railway, New Delhi on the clarification sought by the Senior Divisional Commercial Manager, Northern Railway, Firozpur, therefore, at this stage, *mandamus* is passed upon the Deputy Chief Commercial Manager, concerned to take apt decision, not only clarification but also to the claim raised by the petitioner, specifically, in the said circumstances, whereby similar relief has been granted to the catering contractor. It is expected that the authority concerned shall take apt decision according to law/rules, within three months of receipt of certified copy of this order.

7. The instant petition is **disposed of**, accordingly.

March 03, 2025

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**(KULDEEP TIWARI)
JUDGE**

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No