

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No. 3618 of 2012 (B)

PETITIONER :

**PENNA CEMENT INDUSTRIES LIMITED
THROUGH BRANCH OFFICE VAZHI POCK, NELLICODE POST,
KOZHIKODE, REPRESENTED BY AUTHORISED SIGNATORY
SRI.RAVIKUMAR K., AGED 48 YEARS**

**BY ADVS.SRI.A.MOHAMED MUSTAQUE
SRI.K.R.AVINASH (KUNNATH)**

RESPONDENTS :

- 1. THE UNION OF INDIA
REPRESENTED BY SECRETARY, MINISTRY OF RAILWAY,
CENTRAL SECRETARIAT, NEW DELHI-110001.**
- 2. THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, PALAKKAD-678001.**
- 3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD-678001.**
- 4. THE CHIEF GOODS SUPERVISOR,
SOUTHER RAILWAY, RAILWAY GOOD SHED,
KALLAI-673001, KOZHIKODE DISTRICT.**
- 5. THE CHIEF GOODS SUPERVISOR
SOUTHERN RAILWAY, RAILWAY GOOD SHED, TIRUR
MALAPPURAM DISTRICT-676101.**
- 6. THE CHIEF GOODS SUPERVISOR
SOUTHERN RAILWAY, RAILWAY GOOD SHED VADAKARA,
KOZHIKODE DISTRICT.**
- 7. THE CHIEF GOODS SUPERVISOR
SOUTHERN RAILWAY, RAILWAY GOOD SHED
WEST HILL KOZHIKODE-673005.**

**BY ADV. SRI.JAMES KURIAN, SC, RAILWAYS
BY SRI.C.S.DIAS,SC, RAILWAYS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29-05-2015 ALONG WITH WPC 3950/2012, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS

EXT.P1: TRUE COPY OF THE COMMUNICATION DATED 7.2.2012.

RESPONDENTS' EXHIBITS :

EXT.R3(1): COPY OF THE CIRCULAR NO.TC-1/2005/201/2 DT 19/12/2005.

EXT.R3(2): COPY OF THE ADVANCE RATE NOTIFICATION NO. 2/2005
(GOODS NO.129) DT 29/12/2005.

//TRUE COPY//

P.A. TO JUDGE

bp

K. VINOD CHANDRAN, J.

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**W.P.(C) Nos.3618 of 2012 - B &
3950 of 2012 - P**

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Dated this the 29th day of May, 2015

J U D G M E N T

The petitioners in the above writ petitions are concerned with the enhanced penal demurrage charges demanded from them by the respondent Railways, for the delay in clearing the consignments by the petitioners and releasing the wagons. The similar issues as raised in the writ petitions were considered by this Court in W.A No. 917 of 2014 and connected cases, wherein, the operative portion is as below:

"(1) The writ petitioners are permitted to make an application for waiver before the Station Manager/Goods Supervisor within 30 (thirty) days from today giving all details along with reasons and relevant records as necessary.

(2) Station Master/Goods Supervisor shall forward the application for waiver of demurrage charges to the Divisional Officer with his remark within 15 (fifteen) days of receipt of the application.

(3) The Divisional officer shall take a decision

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on the waiver application considering the reasons and circumstances given by the writ petitioners in the waiver application. Consequential orders be issued thereafter. In case the writ petitioners are aggrieved by the said decision, they can prefer appeal to the higher authority."

In such circumstance, the above writ petitions are also disposed of in a similar manner reserving the right of the petitioners to move as per the aforesaid directions.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.