

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WP(C).No. 7507 of 2012 (K)

PETITIONER(S):

**M/S. MADRAS CEMENTS LTD.
RAMA MANDIRAM, RAJAPALAYAM, REP BY P.VISWANAHTAN
S/O.M.S.PANICKER, AGED 57 YEARS
DEPUTY GENERAL MANAGER
(MARKETING)M/S.MADRAS CEMENTS LTD, 40/6955
D1 & D2, 3RD FLOOR, OMANA BUILDING
JEWS STREET, PADMA JUNCTION, ERNAKULAM-682035**

**BY ADVS.SRI.P.B.SURESH KUMAR (SR.)
SRI.LEO GEORGE
SRI.K.N.SASIDHARAN NAIR**

RESPONDENT(S):

- 1. UNION OF INDIA
REP.BY THE SECRETARY, MINISTRY OF RAILWAYS
CENTRAL SECRETARIAT, NEW DELHI-1**
- 2. THE DIVISIONAL RAILWAY MANAGER,
PALAKKAD-678001**
- 3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
PALAKKAD-678001**
- 4. THE CHIEF GOODS SUPERVISOR
NEELSHWAR RAILWAY GOODS SHED, NEELESHWAR
KASARAGOD-673572**
- 5. COMMERCIAL SUPERVISOR,
SOUTHERN RAILWAY, VADAKARA RAILWAY GOODS SHED
VADAKARA-673101**
- 6. STATION SUPERINTENDENT,
SOUTHERN RAILWAY, VALAPATTANAM, GOODS SHED
VALAPATTANAM, KANNUR-670010**

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

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1:- TRUE COPY OF THE COMMUNICATION ISSUED BY THE THIRD
RESPONDENT TO THE PETITIONER IN RESPECT OF ITS
GOODS SHED AT NEELESHWAR DTD 20/3/2012
- EXT.P2:- TRUE COPY OF THE COMMUNICATION ISSUED BY THE 3RD
RESPONDENT TO THE PETITIONER IN RESPECT OF ITS GOODS
SHED AT VADAKARA DTD 20/3/2012
- EXT.P3:- TRUE COPY OF THE COMMUNICATION ISSUED BY THE 3RD
RESPONDENT TO THE PETITIONER IN RESPECT OF ITS
GOODS SHED AT VALAPATTNAM DTD 20/3/2012
- EXT.P4:- TRUE COPY OF THE INTERIM ORDER PASSED BY THIS
HONOURABLE COURT IN WPC NO 32924/2011 DTD 9/12/2011

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

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ANIL K.NARENDRA, J

W.P.(C.)No.7507 Of 2012

DATED THIS THE 10th DAY OF DECEMBER, 2015

JUDGMENT

The petitioner has approached this Court seeking the following reliefs.

- (i) "declare that respondents have no authority to revise the demurrage charges from Rs.100/- per wagon per hour to Rs.200/- per wagon per hour to Rs.400/- per wagon per hour or to Rs.600/- per wagon per hour or to any other rates depending on the length of time if the goods are to remain at the goods shed or under any circumstances.
- (ii) issue a writ of certiorari or other appropriate writ or order calling for the records leading to Exhibits P1 to P3 communications of the third respondent and quashing the same.
- (iii) issue a writ of mandamus or other appropriate writ, direction or order commanding the respondents to refrain from levying penal demurrage charges at the rate of Rs.200/- per wagon per hour or Rs.400/- per wagon per hour or Rs.600/- per wagon per hours depending on the length of time, during which the goods are to remain at the goods shed as informed in Exhibits P1 to P3 communications from the petitioner.
- (iv) issue such other further relief as this Honourable Court deem fit and proper to grant

in the circumstances of the case.

2. Heard learned counsel for the petitioner and the learned Standing Counsel for the Railways.

Today, when the matter came up for hearing, it was submitted by both sides that the matter in issue has been considered by a Division Bench of this Court in intra court appeals, i.e., WA No.917/2014 & connected cases. A certified copy of the judgment dated 03.09.2014 in the aforesaid writ appeals was made available for perusal. The writ appeals were disposed of as under:

- “(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 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 the light of the above, the writ petition is closed, permitting the petitioner to move as per the aforesaid direction.

**Sd/-
ANIL K.NARENDRA
JUDGE**

//TRUE COPY//

PA TO JUDGE

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