

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

W.P(C).No. 9953 of 2012 (T)

PETITIONER(S):

ROSAMMA JOSE, AGED 42 YEARS,
PROPRIETRESS, KAVALAKAT ASSOCIATES, KAVALAKATT TOWERS,
17/306(5), N.H.ROAD, MANAPPULLIKAVU,
PALAKKAD-678 013.

BY ADV. SRI. GEORGE JACOB (JOSE)

RESPONDENT(S):

1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY, MINISTRY OF RAILWAYS,
CENTRAL SECRETARIAT, NEW DELHI-110 001.
2. THE DIVISIONAL RAILWAY MANAGER ,
SOUTHERN RAILWAY, PALAKKAD DIVISION, PALAKKAD-678 001.
3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD DIVISION, PALAKKAD-678 001.
4. THE STATION MANAGER,
PALAKKAD JUNCTION RAILWAY STATION, SOUTHERN RAILWAY,
PALAKKAD-678 001.
5. THE CHIEF GOODS SUPERVISOR,
RAILWAY GOODS SHED, SOUTHERN RAILWAY,
PALAKKAD-678 001.
6. THE JOINT DIRECTOR,
TRAFFIC, COMMERCIAL (RATES), RAILWAY BOARD,
NEW DELHI-110 001.
7. THE CHIEF COMMERCIAL MANAGER, SOUTHERN RAILWAY, CHENNAI-600 001.

R2 TO R7 BY ADV. SRI. JAMES KURIAN, SC, RAILWAYS
SRI. C. S. DIAS, SC, RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

W.P.(C) NO.9953 OF 2012

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE INTERIM ORDER DATED 06.12.2011 IN W.P.(C) NO.32458/2011 OF THIS HONOURABLE COURT.
- EXHIBIT P2: TRUE COPY OF THE COMMUNICATION DATED 20.03.2012 OF THE 5TH RESPONDENT ENHANCING PENAL DEMURRAGE CHARGES AT PALAKKAD JUNCTION GOODS SHED.
- EXHIBIT P3: TRUE COPY OF THE NOTIFICATION DATED 19.12.2005 ISSUED BY THE 6TH RESPONDENT.
- EXHIBIT P4: TRUE COPY OF THE NOTIFICATION DATED 29.12.2005 ISSUED BY THE 7TH RESPONDENT.

RESPONDENTS' EXHIBITS:

- EXT.R3(1) COPY OF THE CIRCULAR NO.TC-1/2005/201/2 DATED 19-12-2005
- EXT.R3(2) COPY OF THE ADVANCE RATE NOTIFICATION NO.12/2005 (GOODS NO.129) DATED 29.12.2005.

//TRUE COPY//

P.S. TO JUDGE

St/-

SHAJI P. CHALY, J.

W.P.(C) No.9953 of 2012

Dated this the 8th day of October, 2015

JUDGMENT

This writ petition is filed by the petitioner seeking to quash Ext.P2 communication issued by the 5th Respondent so far as the same concerns the Palakkad Railway Goods Shed and for other related reliefs.

2. Today, when the matter was taken up for hearing, learned counsel for the petitioner submitted that in similar circumstances, this Court has disposed of W.P.(C) No.14039 of 2012, granting liberty to the petitioner to file suitable application for waiver also taking into account the judgment of a Division Bench in W.A.No.917 of 2014 & connected cases.

3. I heard the learned Standing Counsel for Railways, Sri. James Kurian. He has no objection in passing a similar order akin to the judgments referred to *supra*.

4. Therefore, there will be a direction to the 3rd Respondent to permit the petitioner to submit a waiver application as provided under law. If the petitioner makes such an application within a period of three weeks from the

date of receipt of a copy of this judgment, 3rd Respondent shall take a decision on the same within a period of two months thereafter.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-
08.10.2015