

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No.11378 of 2012 (V)

PETITIONER :

P.K.AYYOOB,
PROPRIETOR, AYYOOB & COMPANY, EDAMUTTAM,
TRICHUR-680001.

BY ADV. SRI.K.R.AVINASH

RESPONDENTS :

1. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, TRIVANDRUM-695011.
2. THE STATION MASTER,
OLLUR RAILWAY STATION, SOUTHERN RAILWAY,
TRICHUR-680306.
3. THE CHIEF GOODS SUPERVISOR,
OLLUR RAILWAY STATION, SOUTHERN RAILWAY,
TRICHUR-680306.

R1 BY ADV. SRI.JAMES KURIAN, SC, RAILWAYS
BY SRI.C.S.DIAS,SC, RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No.11378 of 2012 (V)

APPENDIX

PETITIONER'S EXHIBITS :-

EXHIBIT P1: TRUE COPY OF THE RAILWAY RECEIPT FOR THE CONSIGNMENT OF THE CEMENT.

EXHIBIT P2: RELEVANT PAGE OF MATHRUBHUMI DAILY DATED 15.5.2012.

EXHIBIT P3: TRUE COPY OF THE RAKE CIRCULAR No.74/2005 ISSUED BY THE MINISTRY OF RAILWAYS.

EXHIBIT P4: TRUE COPY OF THE REQUEST MADE BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 14.5.2012.

EXHIBIT P5: TRUE COPY OF THE RELEVANT PAGES OF PARA 1708 OF CHAPTER 17 OF INDIAN RAILWAY COMMERCIAL MANUAL.

EXHIBIT P6: TRUE COPY OF THE CLARIFICATION ISSUED BY THE MINISTRY OF RAILWAY DATED 20.1.2011.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.11378 of 2012

Dated this the 4th day of December, 2015

JUDGMENT

The petitioner has approached this Court seeking the following reliefs:-

- (i) Declare that petitioner is not liable to pay demurrage charges for the period between arrival of the wagon as per Exhibit.P1 and commencement of unloading of the wagon as the delay due to reasons beyond the control of petitioner.
- (ii) Issue a Writ of Mandamus or such other Writ directing respondents to unload the wagons of the rake placed for unloading as per Ext.P1 without insisting demurrage charges for the period between arrival of the wagon on 14.5.2012 and placement of wagons for unloading.
- (iii) grant such other reliefs as this Hon'ble Court may deem fit and proper as on the facts and circumstances of the case.

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

3. 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 and 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.NARENDRAN, JUDGE

skj

True copy

P.A to Judge