

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. 11809 of 2012 (A)

PETITIONER(S):

**M/S. MADRAS CEMENTS LTD. AGED 57 YEARS
RAMA MANDIRAM, RAJAPALAYAM
REPRESENTED BY P. VISWANATHAN, S/O. M.S.PANICKER
DEPUTY GENERAL MANAGER (MARKETING) M/S. MADRAS CEMENTS LTD.
40/6955
D-1 & D2 THIRD FLOOR, OMANA BUILDING, JEWS STREET
PADMA JUNCTION, ERNAKULAM-682035.**

**BY ADVS.SRI.LEO GEORGE
SRI.T.T.RAKESH**

RESPONDENT(S):

- 1. UNION OF INDIA
REPRESENTED 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. COMMERCIAL SUPERVISOR
SOUTHERN RAILWAY, KALLAI GOODS SHED, KALLAI
KOZHIKODE-678210.**
- 5. STATION SUPERINTENDENT
SOUTHERN RAILWAY, VALAPPATTANAM GOODS SHED
VALAPPATTANAM, KANNUR-670010.**
- 6. THE CHIEF GOODS SUPERVISOR
TIRUR RAILWAY GOODS SHED, TIRUR, MALAPURAM-676101.**

**R1 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 KALLAI DATED 18-5-2012.**

**EXT.P2 : TRUE COPY OF THE COMMUNICATION ISSUED BY THE
THIRD RESPONDENT TO THE PETITIONER IN RESPECT OF
ITS GOODS SHED AT VALAPATTANAM DATED 18-5-2012.**

**EXT.P3 : TRUE COPY OF THE COMMUNICATION ISSUED BY THE
THIRD RESPONDENT TO THE PETITIONER IN RESPECT OF
ITS GODS SHED AT TIRUR DATED 20-5-2012.**

**EXT.P4 : TRUE COPY OF THE INTERIM ORDER PASSED BY THIS
HONOURABLE COURT IN WPC NO. 7507/2012 DATED 26-3-
2012.**

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

avk

ANIL K.NARENDRA, J

W.P.(C.)No.11809 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 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) to 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) to 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) to issue such other further relief as this Honourable Court deem fit and proper in the 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 & 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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