

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 12296 of 2012 (J)

PETITIONER:

DALMIA CEMENT (BHARATH) LIMITED
IVTH FLOOR, FAGUN MANSION, NEAR ETHIRAJ COLLEGE
CHENNAI-600008, REPRESENTED BY ITS DULY AUTHORIZED POWER OF
ATTORNEY HOLDER SRI.RANJITH JACOB MATHEWS
GENERAL MANAGER (SALES & MARKETING-KERALA) .

BY ADVS.SRI.GEORGE JACOB (JOSE)
SMT.MEREENA J.JOSEPH

RESPONDENTS:

1. THE UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF RAILWAYS
CENTRAL SECRETARIAT, NEW DELHI.110001.
2. THE DIVISIONAL RAILWAY MANAGER
SOUTHERN RAILWAY, PALAKKAD 678001.
3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER
SOUTHERN RAILWAY, PALAKKAD 678 001.
4. THE CHIEF GOODS SUPERVISOR,
RAILWAY GOODS SHED, NILESWAR, KASARGODE.671314.
5. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, VALAPATANAM, KANNUR.670010.
6. THE STATION SUPERINTENDENT,
VALAPATTANAM RAILWAY STATION, VALAPATTANAM, KANNUR.670010.
7. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, KALLAYI, KOZHIKODE.673003.
8. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, WEST HELL, KOZHIKODE.673005.
9. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, TIRUR, MALAPPURAM.676 101.
10. THE JOINT DIRECTOR, TRAFFIC
COMMERCIAL (RATES), RAILWAY BOARD, NEW DELHI-110 001.
11. THE CHIEF COMMERCIAL MANAGER
SOUTHERN RAILWAY, CHENNAI-600 001.

R BY ADV. SRI.JAMES KURIAN, SC, RAILWAYS
R5 BY ADV. SRI.JOMY GEORGE
R5 BY ADV. SRI.SEBASTIAN THOMAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) 'S EXHIBITS:

EXHIBITS-P1 - TRUE COPY OF THE POWER OF ATTORNEY DEED DATED 13.1.2011 OF THE PETITIONER AUTHORIZING SRI.RANJITH JACOB MATHEWS GENERAL MANAGER (SALES & MARKETING), COCHIN, TO FILE THE WRIT PETITION.

EXHIBIT-P2 - TRUE COPY OF THE INTERIM ORDER DATED 16/2/2012 OF THIS HON'BLE COURT IN WP(C) NO.3950/2012.

EXHIBIT-P3 - TRUE COPY OF THE COMMUNICATION DATED 22/5/2012 OF THE FOURTH RESPONDENT INTIMATING OF THE IMPOSITION OF ENHANCED PENAL DEMURRAGE.

EXHIBIT-P4 - TRUE COPY OF THE COMMUNICATION DATED 18/5/2012 OF THE SIXTH RESPONDENT INTIMATING OF THE IMPOSITION OF ENHANCED PENAL DEMURRAGE.

EXHIBIT-P5- TRUE COPY OF THE COMMUNICATION DATED 16/5/2012 OF THE SEVENTH RESPONDENT ENHANCING PENAL DEMURRAGE CHARGES.

EXHIBIT-P6 - TRUE COPY OF THE COMMUNICATION DATED 27/5/2012 OF THE EIGHTH RESPONDENT ENHANCING PENAL DEMURRAGE CHARGES.

EXHIBIT-P7 - TRUE COPY OF THE COMMUNICATION DATED 20/5/2012 OF THE NINTH RESPONDENT ENHANCING PENAL DEMURRAGE CHARGES.

EXHIBIT-P8 - TRUE COPY OF THE NOTIFICATION DATED 19.12.2005 ISSUED BY THE 9TH RESPONDENT.

EXHIBIT-P9- TRUE COPY OF THE NOTIFICATION DATED 29.12.2005 ISSUED BY THE 10TH RESPONDENT.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

A.V.RAMAKRISHNA PILLAI, J.

W.P.(C) No. 12296 of 2012

Dated this the 6th day of February, 2015.

JUDGMENT

Challenging the imposition of penal demurrage charges by the respondent Railway Board against the petitioner, the petitioner has come up before this Court.

2. 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 are 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/-
A.V.RAMAKRISHNA PILLAI
JUDGE

Scl.