

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 12408 of 2012 (A)

PETITIONERS:

1. UNIVERSAL AGENCIES
HEAD OFFICE 7/195, M.A.ROAD
CALICUT-673 002 REPRESENTED BY ITS PROPRIETOR
SRI.P.A.MOHAMMED SABITH.
2. CEMENT LAND CORPORATE
14/70-C, INDO JUNCTION (PUSHPA JUNCTION), KALLAI ROAD
CALICUT-673 002, REPRESENTED BY ITS PROPRIETOR
SRI.IFSUL RAHMAN.P.S.

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

RESPONDENTS:

1. THE UNION OF INDIA
REPRESENTED BY THE SECRETARY
MINISTRY OF RAILWAYS, CENTRAL SECRETARIAT
NEW DELHI-110 001.
2. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD-678 001.
3. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, NILESWAR, KASARGODE-671 314.
4. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, VALAPATTANAM, KANNUR-670 010.
5. THE STATION SUPERINTENDENT
RAILWAY GOODS SHED, VALAPATTANAM, KANNUR-670 010.
6. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, KALLAI, KOZHIKODE-673 003.
7. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, WEST HILL, KOZHIKODE-673 005.
8. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED, TIRUR, MALAPPURAM-676 101.
9. THE JOINT DIRECTOR
TRAFFIC, COMMERCIAL (RATES), RAILWAY BOARD
NEW DELHI-110 001.

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10. THE CHIEF DIRECTOR
TRAFFIC, COMMERCIAL (RATES), RAILWAY BOARD
NEW DELHI-110 001.

R BY ADV. SRI.JAMES KURIAN, SC, RAILWAYS

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

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE INTERIM ORDER DATED 16/2/12 OF THIS
HON'BLE COURT IN WPC.3950/12.

EXHIBIT P2: TRUE COPY OF THE COMMUNICATION DATED 22/5/12 OF THE THIRD
RESPONDENT INTIMATING OF THE IMPOSITION OF ENHANCED DEMURRAGE.

EXHIBIT P3: TRUE COPY OF THE COMMUNICATION DATED 18/5/12 OF FIFTH
RESPONDENT INTIMATING OF THE IMPOSITION OF ENHANCED DEMURRAGE.

EXHIBIT P4: TRUE COPY OF THE COMMUNICATION DATED 16/5/12 OF THE 6TH
RESPONDENT ENHANCING DEMURRAGE CHARGES.

EXHIBIT P5: TRUE COPY OF THE COMMUNICATION DATED 27/5/12 OF 7TH
RESPONDENT ENHANCING DEMURRAGE CHARGES.

EXHIBIT P6: TRUE COPY OF THE COMMUNICATION DATED 20/5/12 OF THE 8TH
RESPONDENT ENHANCING DEMURRAGE CHARGES.

EXHIBIT P7: TRUE COPY OF THE NOTIFICATION DATED 19/12/2005 ISSUED BY
THE 9TH RESPONDENT.

EXHIBIT P8: 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. 12408 of 2012

Dated this the 2nd day of February, 2015.

JUDGMENT

Challenging the imposition of penal demurrage charges by the respondent Railway Board against the petitioners, the petitioners have 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 petitioners to move as per the aforesaid direction.

Sd/-
A.V. RAMAKRISHNA PILLAI,
JUDGE

Scl.