

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. 13939 of 2012 (N)

PETITIONER:

THE INDIA CEMENTS LIMITED
"ICL HOUSE", KRISHNASWAMY ROAD, ERNAKULAM
REPRESENTED BY ITS MANAGER (ACCOUNTS)
SRI.K.SRIDHARAN.

BY ADVS.SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN

RESPONDENTS:

1. THE UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF RAILWAYS
CENTRAL SECRETARIAT, NEW DELHI-100001.
2. THE RAILWAY BOARD,
REPRESENTED BY ITS CHAIRMAN, RAIL BHAVAN
NEW DELHI-100001.
3. THE GENERAL MANAGER,
SOUTHERN RAILWAY, PARK TOWN, CHENNAI-600001.
4. THE CHIEF COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PART TOWN, CHENNAI-600001.
5. THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, PALAKKAD - 678001.
6. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD - 678001.
7. THE CHIEF GOODS SUPERVISOR, SOUTHERN RAILWAY,
TIRUR, MALAPPURAM - 676505.
8. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, WEST HILL, KOZHIKODE-673001.
9. THE STATION SUPERINTENDENT,
SOUTHERN RAILWAY, VALAPATTANAM - 670001.
10. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, KALLAI-673506.

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11. THE COMMERCIAL GOODS SUPERVISOR, SOUTHER RAILWAY,
NILESHWAR, KASARAGOD - 671121.

12. THE JOINT DIRECTOR,
TRAFFIC, COMMERCIAL (RATES), RAILWAY BOARD
NEW DELHI- 100001.

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) 'S EXHIBITS:

- EXT.P1 TRUE COPY OF THE NOTICE OF THE 7TH RESPONDENT DATED
13/6/2012.
- EXT.P2 TRUE COPY OF THE NOTICE OF THE 8TH RESPONDENT DATED
12/6/2012.
- EXT.P3 TRUE COPY OF THE NOTICE OF THE 9TH RESPONDENT DATED
11/6/2012.
- EXT.P4 TRUE COPY OF THE NOTICE OF THE 10TH RESPONDENT DATED
09/6/2012.
- EXT.P5 TRUE COPY OF THE NOTICE OF THE 11TH RESPONDENT DATED
12/6/2012.
- EXT.P6 TRUE COPY OF THE CIRCULAR NO.74/2005 DATED 19/12/2005
AND ITS CORRIGENDUM DATED 17/1/08.
- EXT.P7 TRUE COPY OF THE NOTIFICATION DATED 29/12/2005.
- EXT.P8 TRUE COPY OF THE INTERIM ORDER DATED 14/2/2012 IN
WPC.3634/2012.

RESPONDENT'S EXHIBITS:

- EXT.R6(1) TRUE COPY OF THE CIRCULAR NO.TC-1/2005/201/2 DTED.
19.12.2005 ISSUED AS RATE CIRCULAR NO.74/2005 WITH
CORRIGENDUM DTD.17.1.2008 ISSUED BY DIRECTOR TRAFFICT
COMML. (RATES) RAILWAY BOARD, NEW DELHI.
- EXT.R6(2) ADVANCE RATE NOTIFICATION FOR RATE ADVICE NO.12/2005
(GOODS NO.129/2005) DT.29.12.2005 ISSUED BY CHIEF
COMMERCIAL MANAGER, SOUTHERN RAILWAY, CHENNAI.

TRUE COPY

PA TO JUDGE

Scl.

A.V.RAMAKRISHNA PILLAI, J.

W.P.(C) No.13939 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 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.