

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 14017 of 2012 (B)

PETITIONER:

**THARAYIL STEELS INDUSTRIES,
MAIN ROAD, MAKKARAPARAMBA,
MALAPPURAM DISTRICT,
REPRESENTED BY ITS MANAGING PARTNER,
SRI.MOHAMED MUSTAFA.**

BY ADV. SRI.K.R.AVINASH

RESPONDENT(S):

- 1. THE UNION OF INDIA, REPRESENTED
BY SECRETARY, MINISTRY OF RAILWAY
CENTRAL SECRETARIAT, NEW DELHI - 110001.**
- 2. THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, PALAKKAD - 678001.**
- 3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD - 678001.**
- 4. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, RAILWAY GOOD SHED,
KALLAI - 673001, KOZHIKODE DISTRICT.**
- 5. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, RAILWAY GOOD SHED,
TIRUR, MALAPPURAM DISTRICT - 676101.**
- 6. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, RAILWAY GOOD SHED,
OLLUR, TRICHUR DT.**
- 7. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, RAILWAY JUNCTION GOOD SHED,
OLAVAKKOD PALAKKAD - 678001.**
- 8. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, RAILWAY GOOD SHED WEST HILL,
KOZHIKODE - 673005.**

**BY SRI.JAMES KURIAN, SC
BY SRI.C.S.DIAS,SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE COMMUNICATION ISSUED BY THE CHIEF GOODS SUPERVISOR, RAILWAY GOOD SHED, WEST HILL DATED 12.6.2012.
- EXT. P2 : TRUE COPY OF THE COMMUNICATION ISSUED BY 5TH RESPONDENT DATED 13.6.2012.
- EXT. P3 : TRUE COPY OF THE INTERIM ORDER IN WP(C)NO.11485/2012 OF THIS HON'BLE COURT DATED 21.5.2012.

RESPONDENTS' EXHIBITS:

- EXT.R3(1) : TRUE COPY OF THE CIRCULAR NO.TC-1/2005/201/2 DATED 19.12.2005 ISSUED AS RATE CIRCULAR NO.74/2005 WITH CORRIGENDUM DATED 17.1.2008 ISSUED BY DIRECTOR TRAFFIC COMML.(RATES) RAILWAY BOARD, NEW DELHI.
- EXT.R3(2) : ADVANCE RATE NOTIFICATION FOR RATE ADVICE NO.12/2005(GOODS NO.129/2005) DATED 29.12.2005 ISSUED BY CHIEF COMMERCIAL MANAGER, SOUTHERN RAILWAY, CHENNAI.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J.

W.P.(C) No. 14017 of 2012 (B)

Dated this the 20th day of July, 2015

J U D G M E N T

The petitioner in the above writ petition is concerned with the enhanced penal demurrage charges demanded from them by the respondent Railways, for the delay in clearing the consignments by the petitioners and releasing the wagons. The similar issues, as raised in the writ petition, were considered by this Court in W.A No. 917 of 2014 and connected cases, wherein, the operative portion is as below:

“(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 such circumstance, the above writ petition is also disposed of in a similar manner reserving the right of the petitioner to move as per the aforesaid directions.

Sd/-
K.VINOD CHANDRAN,
JUDGE