

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 14360 of 2012 (T)

PETITIONER(S):

**DALMIA CEMENT (BHARATH) LIMITED,
IVTH FLOOR FAGUM MANSION NEAR ETHIRAJ SALAI CHENNAI 600008
REPRESENTED BY ITS DULY AUTHORIZED POWER OF ATTORNEY HOLDER
SRI RENJITH JACOB MATHEWS GENERAL
MANAGER 9SALES & MARKETING-KERALA)**

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

RESPONDENT(S):

- 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 678001**
- 4. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED TIRUR MALAPPURAM 676101**
- 5. THE CHIEF GOODS SUPERVISOR
RAILWAY GOODS SHED ERAKKOT KANNUR 670662**
- 6. THE STATION SUPERINTENDENT
RAILWAY GOODS SHED ETAKKOT KANNUR 670662**
- 7. THE JOINT DIRECTOR
TRAFFIC COMMERCIAL(RATES) RAILWAY BOARD NEW DELHI 110001**
- 8. THE CHIEF COMMERCIAL MANAGER
SOUTHERN RAILWAY CHENNAIR 600001**

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

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 14360 of 2012 (T)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.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.**
- EXT.P2 : TRUE COPY OF THE INTERIM ORDER DATED 16.2.2012 OF THIS HONOURABLE COURT IN W.P.C.NO.3950/2012**
- EXT.P3 : TRUE COPY OF THE COMMUNICATION DATED 13/6/2012 OF THE FOURTH RESPONDENT INTIMATING OF THE IMPOSITION OF ENHANCED DEMURRAGE.**
- EXT.P4 : TRUE COPY OF THE COMMUNICATION PUBLISHED BY THE 6TH RESPONDENT ON 14.6.2012 SIXTH RESPONDENT INTIMATING OF THE IMPOSITION OF ENHANCED DEMURRAGE**
- EXT.P5 : TRUE COPY OF THE NOTIFICATION DATED 19.12.2005 ISSUED BY THE 7TH RESPONDENT.**
- EXT.P6 : TRUE COPY OF THE NOTIFICATION DATED 29.12.2005 ISSUED BY THE 8TH RESPONDENT.**

RESPONDENT(S)' 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 17.01.2008 ISSUED BY DIRECTOR TRAFFIC COMMISSIONER(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/

PA TO JUDGE

VS

K.VINOD CHANDRAN, J

W.P.(C).No.14360 & 15980 of 2012

Dated this the 15th day of July, 2015

JUDGMENT

The petitioners in the above writ petitions are 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 petitions were considered by this Court in W.A.No.917 of 2014 and connected case wherein, the operative portion is as below :

- (i) 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.
- (ii) 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.
- (iii) 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 petitions are also disposed of in a similar manner reserving the right of the petitioners to move as per the aforesaid directions.

Sd/-
K.VINOD CHANDRAN
JUDGE

VS