

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 15640 of 2012 (D)

PETITIONER(S) :

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

**BY SRI.K.SRIKUMAR (SENIOR ADVOCATE.)
ADVS.SRI.K.MANOJ CHANDRAN
SRI.P.R.AJITHKUMAR**

RESPONDENT(S) :

- 1. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY, MINISTRY RAILWAYS,
CENTRAL SECRETARIAT, NEW DELHI-100 001.**
- 2. THE RAILWAY BOARD,
REPRESENTED BY ITS CHAIRMAN, RAIL BHAVAN,
NEW DELHI-100 001.**
- 3. THE GENERAL MANAGER,
SOUTHERN RAILWAY, PARK TOWN, CHENNAI-600 001.**
- 4. THE CHIEF COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PARK TOWN, CHENNAI-600 001.**
- 5. THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, PALAKKAD-678 001.**
- 6. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD-678 001.**
- 7. THE STATION SUPERINTENDENT,
SOUTHERN RAILWAY, VALAPATTANAM-670 001.**
- 8. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, TIRUR, MALAPPURAM-676 505.**
- 9. THE CHIEF GOODS SUPERVISOR,
SOUTHERN RAILWAY, KALLAI-673 506.**

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**10. THE JOINT DIRECTOR,
TRAFFIC, COMMERCIAL [RATES], RAILWAY BOARD,
NEW DELHI-100 001.**

BY ADV. SRI.JAMES KURIAN, S.C

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1:** TRUE COPY OF THE NOTICE OF THE 7TH RESPONDENT DATED 02-07-2012.
- EXHIBIT P2:** TRUE COPY OF THE NOTICE OF THE 8TH RESPONDENT DATED 03-07-2012.
- EXHIBIT P3:** TRUE COPY OF THE NOTICE OF THE 9TH RESPONDENT DATED 29-06-2012.
- EXHIBIT P4:** TRUE COPY OF THE CIRCULAR NO.74/2005 DATED 19-12-2005 AND ITS CORRIGENDUM DATED 17-01-2008.
- EXHIBIT P5:** TRUE COPY OF THE NOTIFICATION DATED 29-12-2005.
- EXHIBIT P6:** TRUE COPY OF THE INTERIM ORDER DATED 14-02-2012 IN W.P.(C).NO.3634/2012.

RESPONDENT(S)' EXHIBITS

- EXHIBIT R6(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 COMML.(RATES) RAILWAY BOARD, NEW DELHI.
- EXHIBIT R6(2):** ADVANCE RATE NOTIFICATION FOR RATES ADVICE NO.12/2005(GOODS NO.129/2005) DATED 29.12.2005 ISSUED BY CHIEF COMMERCIAL MANAGER, SOUTHERN RAILWAY, CHENNAI.

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 15640 of 2012

Dated this the 27th day of January, 2015

J U D G M E N T

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.

..2..

(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

bka/-