

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WP(C).No. 30146 of 2012 (P)

PETITIONER(S):

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

**BY ADVS.SRI.K.SRIKUMAR (SR.)
SRI.K.MANOJ CHANDRAN**

RESPONDENT(S):

- 1. THE CHIEF COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PARK TOWN, CHENNAI - 600 001.**
- 2. THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, PALAKKAD - 678 001.**
- 3. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD - 678 001.**
- 4. THE COMMERCIAL SUPERVISOR,
SOUTHERN RAILWAY, BADAGARA, KOZHIKODE - 673 001.**

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

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS

**EXHIBIT P1. TRUE COPIES OF THE RAILWAY RECEIPTS NOS.262004581 AND
262004582 DATED 11.04.2012.**

EXHIBIT P2. TRUE COPY OF THE RECEIPT NO.182210 DATED 19.04.2012.

EXHIBIT P3. TRUE COPY OF THE RECEIPT DATED 25.05.2012.

EXHIBIT P4. TRUE COPY OF THE REPRESENTATION DATED 26.05.2012.

EXHIBIT P5. TRUE COPY OF THE LETTER DATED 28.05.2012.

EXHIBIT P6. TRUE COPY OF THE REPLY DATED 11.06.2012.

EXHIBIT P7. TRUE COPY OF THE DEMAND NOTICE DATED 10.07.2012.

EXHIBIT P8. TRUE COPY OF THE OBJECTION DATED 17.07.2012.

EXHIBIT P9. TRUE COPY OF THE DEMAND NOTICE DATED 14.11.2012.

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

avk

ANIL K.NARENDRA, J

W.P.(C.)No.30146 Of 2012

DATED THIS THE 10th DAY OF DECEMBER, 2015

JUDGMENT

The petitioner has approached this Court seeking the following reliefs.

- (i) to call for the records leading to Ext.P9, verify and quash the same by issuing a writ of certiorari or any other writ, order or direction;
- (ii) to call for the records leading Ext.P7, verify and quash the same by issuing a writ of certiorari or any other writ, order or direction;
- (iii) to declare that the petitioner is not liable to pay any demurrage and haulage charges as demanded in Ext.P9 and Ext.P7;
- (iv) to pass such other order or direction which in the circumstances of this case, this Hon'ble Court deems fit.

2. Heard learned counsel for the petitioner and the learned Standing Counsel for the Railways.

3. 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 were

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/-
ANIL K.NARENDRA
JUDGE

//TRUE COPY//

PA TO JUDGE

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