
(1937) 02 AHC CK 0026
In the Allahabad High Court

Firm Ram Lal Bhikam Chand

APPELLANT

Vs

Secretary of State

RESPONDENT

Date of Decision : 03-02-1937

Acts Referred:

Citation : (1937) 02 AHC CK 0026

Final Decision : Dismissed

Judgement

Niamat Ullah, J.—This is a revision u/s 25, Small Cause Courts Act. The plaintiff applicant consigned from Railway Station Latehar to Belanganj a certain quantity of condemned Railway materials. The booking clerk charged them at the rate of As. 4-3 per maund. When the goods arrived at their destination the Railway Official of Belanganj Station charged an excess calculating the freight at the rate of As. 6-2. The plaintiff paid under protest, and sued for recovery of the excess. It is argued on behalf of the plaintiff that it was not open to the Railway to disregard its contract with him for carriage of the goods at the rate agreed upon. If there had been nothing else in the case, this argument would have been unanswerable. It has, however, been brought out in the evidence that the plaintiff was charged at the rate of As. 4-3 per mound by the clerk, of Latehar, as he was under a mistaken belief that the materials which were being consigned were "home materials", for which a freight of As. 4-3 per mound is prescribed, whereas the materials which the plaintiff had consigned were "foreign Railway materials", for which the freight was As. 6 2 per maund.

2. It is argued on these facts and on the strength of an agreement noted on the back of the Railway Receipt that the Railway was entitled to "re classify" the goods at the place of destination and to collect "before the goods are delivered any amount that may have been omitted or undercharged". Learned Advocate for the applicant has strongly contended that the excess charge made at Belanganj was not the result of "re-classification" of the goods or of the rate of freight applicable. I am unable to accept this contention. It is clear from the evidence that Railway materials are divided for the purposes of freight into two

classes, viz. "home materials" and "foreign materials." The freight, in the case of the former, is As. 4-3 per maund, and in the case of the latter, As. 6-2 per maund. Whether the word "re-classification" occurring in condition 6 printed on the back of the receipt refers to rate or to materials, the position is the same. Whether it means re-classification of the goods or re classification of the rates, no difference is made in the present case. There is no doubt, as already stated, that Railway materials have been divided for the purposes of freight into two classes. Similarly it is clear that the rate at which freight is to be charged is of two kinds, one applicable to home Railway materials and the other to foreign Railway materials. In my opinion the Railway Company was within its rights to charge freight at the higher rate, namely, As. 6-2 per maund. Reference has been made in this connection to several cases decided by this Court. It was held in *Chunni Lal v. Nizam's Guaranteed State Ry. Co.* 29 A. 228 : 4 A.L.J. 80 : 1907 A.W.N. 21 that:

The contract for carriage of the goods for the whole of the distance was one entire contract with the receiving company, who were liable for the overcharge, if any, wrongfully demanded from the consignee.

3. A condition similar to condition No. 6, already refined to, was relied on, but the learned Judges held that it was not applicable to the facts of that case. The Railway Company, in that case, had charged for the carriage of certain goods the freight at the wagon rate, but at destination it was re calculated at maundage rate. It was held that it was not a case of "re-measurement, re-weighment, re-classification and re-calculation of rates". In *Ganga Ram Chaudhari Vs. Mt. Mutesra*, it was held on the facts of that case, that the Railway Company was not entitled to charge freight in excess of what had been paid on consignment. On the other hand, in *Secretary of State v. Harbans Prasad Vaish* (1920) A.L.J. 206 : 122 Ind. Cas. 669 : A.I.R.All. 848 : 52 A 81 : (1930) All 269, it was held that condition No. 6, noted on the back of the Railway Receipt, was applicable and the Railway Company had authority to charge excess freight. It seems to me that no general rule can be laid down. It will depend upon the circumstances of each case as to whether condition No. 6 is or is not applicable. On the facts of the present case, I am satisfied that it is applicable and the lower Court has correctly applied it. The result is that the application for revision is dismissed with costs.