

(1995) 01 NCDRC CK 0051

In the National Consumer Disputes Redressal Commission

SEARSOLE CHEMICAL LTD.

APPELLANT

Vs

G.M. EASTERN RAILWAYS

RESPONDENT

Date of Decision : 30-01-1995

Acts Referred:

Citation : 1995 1 CPR 558 : 1995 2 CPJ 405

Hon'ble Judges : A.K.Bhattacharjee , Sunil Kanti Kar , S.Dutta J.

Judgement

1. THIS is a complaint against the Railway claiming compensation against them for short delivery of coal consigned by the complainant for carriage to Dehradun Station. The complainant is a company incorporated under the Companies Act, 1956. For the purpose of its business it purchased 45 box wagons of coal from Singruelli Field of Northern Coal Fields Ltd. paying a price of Rs. 14,80,000/- with necessary permission from the Coal India Ltd. and delivered the same to the O.Ps. Railway on different dates for carriage to Dehradun Rly. Station. Out of 45 box wagons the complainant/petitioner had so far received only 39 wagons. It has been alleged that on arrival at the destination station short supply of coal was detected and the petitioner repeatedly requested the Senior Divisional Superintendent, Northern Rly. for the reweighment of the box wagons to establish the short delivery. Besides the petitioner also got the box wagons as received by it weighed in an independent Weigh Bridge, namely, Kohli Motor Weigh Bridge and it was found on such weighment that instead of delivery of 2,340.920 M.T. of coal in the 39 Box wagons, the Railway Authorities had actually delivered 2126685 M.T. of coal. As a result of such shortage the petitioner has suffered loss and damage to the tune of Rs. 2,20,378.84 being the price of the short delivered quantity of coal. Besides the petitioner got short delivery of steam coal to the extent of 8.76 M.T. of coal in another consignment against R/R No. 031700 dated 4.5.92. The petitioner has, therefore made a total claim of Rs. 2,31,050.84 P against the O.Ps.-railways.

2. THE O.Ps. have contested the case by denying the alleged short delivery. THEY have also raised other objections against the claim on the basis of re-weighment

as claimed by the petitioner. Another very important objection raised by the Railways is that the Consumer Disputes Redressal Commission has no jurisdiction to try the case in view of Section 15 of the Railway Claims Tribunal Act, 1986. On consent of both the parties the point of jurisdiction is taken up first. The learned Lawyer for the Railways argues that under Section 15 of the Railway Claims Tribunal Act, 1987, read with Section 13 of the said Act the Claims Tribunal constituted under the Act shall have exclusive jurisdiction in relation to the matters referred to in Sub-section (1) of Section 13. Sub-section (1) of Section 13 reads as follows: "The Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any Civil Court or a Claims Commissioner appointed under the provisions of the Railways Act: (a) Relating to the responsibility of the Railway Administrations as carriers under Chapter VII of the Railways Act in respect of claims for - (i) Compensation for loss, destruction, damage, deterioration of non-delivery for animals or goods entrusted to a Railway Administration for carriage by railway; (ii) Compensation payable under Section 82-A of the Railways Act or the rules made thereunder; and

(b) In respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals to goods entrusted to a Railway Administration to be carried by Railway."

Section 15 of the Act reads as follows:- "On and from the appointed day, no Court or other authority shall have, or be entitled to, exercise and jurisdiction, powers or authority in relation to the matters referred to in Sub-section (1) of Section 13."

In the instant case the claim for compensation for non-delivery of the coal is obviously covered by Section 13(1)(a)(i) quoted above. The learned Lawyer for the O.Ps. cites a decision of the State Consumer Disputes Redressal Forum, Madras in A.P. No. 95 of 92 (Chief Commercial Superintendent (Claim), Southern Rly., Tricky and Another v. M/s. Mukesh Enterprises) in which the Commission has held that the words "no Court or other Authority" are wide enough to include the Forum constituted under the Consumer Disputes Redressal Commission on a Revision Petition No. 197 of 1992 filed against the order of the Madras State Commission. We most respectfully agree to the above view, which is supported by the National Commission and hold that this Commission has no jurisdiction to entertain this case.

3. THE case is accordingly dismissed. Having regard to the facts of the case the parties will bear their own costs. Case dismissed.