
(1929) 07 AHC CK 0043
In the Allahabad High Court

Secy. of State

APPELLANT

Vs

B. Harbans Prasad Vaish

RESPONDENT

Date of Decision : 03-07-1929

Acts Referred:

Citation : AIR 1929 All 848 : (1930) ILR (All) 81 : 122 Ind. Cas. 669

Judgement

1. In this revision the opposite party is unrepresented and the learned Government Advocate who appears for the petitioner had to discharge the difficult duty of representing both sides of the case and in our opinion he has done that, as was expected of him, admirably. It appears that the opposite party had consigned to himself certain amount of jaggery from a railway station called Belharghat on the O.R. section of the E.I. Ry. to a station called Karvi situated on the G.I.P. Ry. The goods had to travel over the O.R.R. and E.I. sections of the E.I. Ry. and the G.I.P. Ry. Over the G.I.P. Ry. and the E.I. section of the E.I. Ry. a certain rate known as "first class rate" was charged. Over the O.R. section of the E.I. Ry. a certain rate known as (C/F) was charged. It appears that under the rules of the Railway, first class rates should have been charged over the O.R. section also. The (C/F) rate is reserved for Messrs. Carew and Co., apparently because they are a large customer of the railway with respect to jaggery. When the goods arrived at Karvi the station staff demanded, besides another item, Rs. 26-6-0 in excess of the freight declared in the railway receipt. The respondent paid this sum and then instituted the suit out of which this appeal has arisen for recovery of this sum of money namely Rs. 29-6-0 and also another sum of Rs. 4-5 (as to which there is no dispute) and interest. The suit was decreed by the learned Judge, Small Cause Court; hence this petition in revision. The petition came before a learned single Judge of this Court, but having regard to the importance of the decision to the Railway the matter was referred to a Bench of two Judges. The learned Government Advocate has drawn our attention to the Full Bench case of Chuni Lal v. Nizam's Guaranteed State Ry. Ltd [1907] 29 All. 228 and has sought to distinguish that case from the case before us.

2. In the case in Chuni Lal v. Nizam's Guaranteed State Ry. Ltd. [1907] 29 All.

228 it appears, a certain consignment of chillies in two waggons was made. The officers of the railway, at the destination charged an excess freight on the basis of what had been described as "maund rates." The railway officer at the place of consignment charged freight at what has been described as "waggon rate. There was some difference between the two and the question was whether the officer, at the station of consignment, Having decided to charge at the waggon rate the railway company could, subsequently, charge at the maund rate. The learned Judges held that the contract having been made in one way, could not be altered subsequently. They repudiated the argument that the officer at the station of consignment was not authorized to enter into the contract. Then the counsel of the railway argued that the right reserved by the Railway Company of "reweighment, re-classification and re-calculation of the rates" gave them a right to change the waggon rate into maund rates. Their Lordships held that this reservation did not cover the case before them.

3. In this case, the learned Government Advocate has contended that the words quoted above (which will be found printed at the back of the railway receipt, para. 6) covered the present case. The learned Government Advocate has shown to us the E.I. Ry. pamphlet No. 1 containing general classification of goods and also the Goods Tariff part IA of the G.I.P. Ry. and has satisfied us that the C/F rate is reserved for a particular customer, viz., Carew and Co., while the ordinary customer has to pay the first class rate for jaggery when the goods are carried at owner's risk, as in this case. Chap. 3 of the E.I. Ry. pamphlet shows that there are ten classes of goods and for each class a separate rate is laid down. It follows that for every class of goods a specified rate is charged under the rules of the railway. The books already mentioned show that all kinds of goods which are subject of traffic have been classed under those ten heads and they are charged for accordingly. It must be perfectly clear, therefore, that the railway officer at the place of consignment should have charged over the R. section also, the "first class rate" and not the C/F rate.

4. Now the question is whether the railway can make a fresh calculation on the basis of fresh classification. As we have said, para. 6 of the conditions provided at the back of the railway receipt, does give the railway a right to re-classify and re-calculate the rates. The re-classification will place the goods under class I and there calculation of rate (fixed for first class) will give the additional sum of Rs. 29-6-0. The present case is, therefore, entirely different from the case before the Full Bench. We allow the petition in revision and reduce the decree granted to the respondent by the Court below, by the sum of Rs. 29-6-0 and proportionate interest and proportionate costs. The costs in this Court will be borne by the applicant himself as there is no contest and as the petitioner's own servant was responsible for the initial mistake.