(2012) 03 RAJ CK 0056

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1073 of 2012

The Union of India APPELLANT

Vs

Indian Potash Limited RESPONDENT

Date of Decision : 19-03-2012

Acts Referred:
Railway Claims Tribunal Act, 1987 — Section 16, 23

Citation : (2012) 03 RAJ CK 0056

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon''ble Ms. Justice Bela M. Trivedi

1. The present appeal has been filed by the appellant(original non-applicant) u/s 23 of the Railway Claims Tribunal Act, 1987(hereinafter referred to as the said ''Act''),against the order dated 13.12.2011 passed by the Railway Claims Tribunal, Jaipur Bench, Jaipur, (hereinafter referred to as the Tribunal),in O.A. No. III-18/2007, whereby the Tribunal has allowed the claim petition of the respondent-original-applicant directing that the respondent Company shall be entitled to receive Rs. 16,242, as refund of freight realized in excess by the Railway Administration along with 6% p.m. interest thereon from the date of filing of the claim application till its realization. It is submitted by Learned Counsel Mr. Shailesh Prakash Sharma for the appellant that as per the IRCA Goods Tariff Rules, once the consignor elects in writing on the Forwarding Note, with regard to the goods to be sent via shortest and cheapest route, the freight was to be charged as per the cheapest route. He also submitted that even though there was some mistake in the calculation of about 5 Kms., that would have made no difference, as the slab in which charges were to be levied was the same for 2535 and 2539 Kms. According to Mr. Sharma, the Tribunal has failed to consider the said aspect and hence the impugned order deserves to be set-aside.

2. Having regard to the submissions made by the Learned Counsel Mr. Sharma and to the impugned order, it transpires that the Tribunal has allowed the claim petition of the respondent made u/s 16 of the said Act on the ground that the Railway Administration had charged excess freight by carrying the consignment through longer route instead of the shortest and the cheapest route. The Tribunal after considering the evidence on record and the relevant provisions of the IRCA Goods Tarrif Rules has observed that the Railway Authority had not categorically stated or argued at any stage of the proceedings that the shorter route and the distance given by the applicant company was actually available or not as per the new distance tables then in force. It has been also held that route selected by the consignor and the goods carried by the respondent were the same and since the distance from Ranapratap Nagar to Kottayam as worked out by the applicant company was not specifically denied, it was proved that the Railway Administration had charged excess freight for 14 kms. illegally and the same was liable to be refunded. In view of the said observations made by the Tribunal and in view of the fact that the amount involved in the appeal is very small, this Court is not inclined to interfere with the said impugned order passed by the Tribunal. In that view of the matter, the present appeal being devoid of merits deserves to be dismissed and is accordingly dismissed.