

GAHC010214442012



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MFA/7/2012

UNION OF INDIA,
REPRESENTED BY THE GENERAL MANAGER, N.F. RAILWAY, MALIGAON,
GUWAHATI-11, ASSAM.

VERSUS

M/S NORTH EAST IODISED SALT PVT. LTD.
BHADRAPALI, GANDHIGRAM, P.O. AGARTALA TRIPURA

Advocate for the Petitioner : MSB DEVI

Advocate for the Respondent : MR.A GOYAL

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

Date of hearing : 29.05.2024

Date of Judgment : 14.06.2024

JUDGMENT & ORDER (CAV)

Heard Mr. G. Goswami, learned counsel appearing for the appellant and
Ms. M. Sharma, learned counsel appearing for the respondent.

2. This is an appeal under Section 23 of the Railway Claims Tribunal Act,
1987 challenging the judgment and order dated 19.09.2011 passed by the

Railway Claims Tribunal, Guwahati Bench in O.A. No.544 of 2006.

3. 32863 bags, each containing 75 kilograms of salt were booked for transporting the same from KOD to DMR by the respondent. At the time of delivery of the consignment, 2642 bags of salt were found missing. Therefore, the respondent claimed a compensation of Rs. 3,73,050/- @ Rs. 141.20 per bag.

4. The appellant/Railways denied the claim of the respondent by stating that the respondent had failed to prove the aforesaid fact.

5. On the basis of the pleadings of both the parties, the following issues were framed by the Tribunal :-

(i) Whether valid notice u/s 106 of the Railways Act, 1989 was served by the applicant to the respondent in time ?

(ii) Whether the applicant is entitled for the shortage as alleged in the application ?

(iii) Relief and order.

6. During the hearing of the matter before the Tribunal, both sides mutually accepted that 2642 bags, each containing 75 kilograms of salt were short delivered and both sides have jointly filed an agreement to that effect.

7. Therefore, the Tribunal directed the appellant/Railways to pay Rs.3,73,050/- along with interest @6% per annum to the respondent.

8. Aggrieved by the aforesaid judgment, appellant/Railways filed this appeal on the ground that the aforesaid agreement between the parties was not exhibited and therefore, the said agreement has no legal value.

9. I have considered the submissions of the learned counsels.

10. In an ongoing litigation before a Court or Tribunal, if both sides enter into an agreement towards disposal of the case on compromise, the said compromise deed, if there be any, need not be exhibited in the hearing stage. Therefore, I find that the plea taken by the appellant/Railways does not hold good in the eye of law.

11. I am of the considered opinion that the appellant has filed this appeal without any basis.

12. For the aforesaid reasons, the appeal is found to be devoid of merit and stands dismissed accordingly.

Send back the LCR.

JUDGE

Comparing Assistant