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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 13.7.2016

FAO No. 5270 of 2011 (O/M)
Rashtriya Ispat Nigam Limited

..... Appellant

Versus

Union of India and others

..... Respondents

FAO No. 5271 of 2011 (O/M)
Rashtriya Ispat Nigam Limited

..... Appellant

Versus

Union of India and others

..... Respondents

FAO No. 5272 of 2011 (O/M)
Rashtriya Ispat Nigam Limited

..... Appellant

Versus

Union of India and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- None for the appellant in all the cases.

Mr. Nitin Kumar, Advocate, for respondents
in all the cases.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

By this single judgment, I will dispose of all the three appeals
i.e. FAO No. 5270-2011, FAO No. 5721-2011 and FAO No. 5272-2011, as
the same are arising out of the same judgment dated 13.1.2010, passed by
the Railway Claims Tribunal, Chandigarh Bench, Chandigarh.

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Today, none has appeared on behalf of the appellant to address arguments, despite the last opportunity granted to it. On the earlier occasion, vide order dated 25.4.2016, passed by this Court in FAO-5270 to 5272-2011, the last opportunity was granted to the appellant to address arguments. Despite such opportunity even today, none has come present to address arguments on behalf of the appellant. Therefore, this Court has proceeded to decide the present appeals on merits.

The short point involved in all the appeals is that different rake loads of Box Wagons, containing wire rod coils, were entrusted to the Railway Administration at Vishakhapatnam, against different railway receipts for carriage and delivery at Faridabad and Bahadurgarh, at railway risk rate. According to the appellant, the railway staff told them that the consignment can be delivered at two different destinations i.e. Faridabad and Bahadurgarh. However, when the consignment reached the destinations, it was found that the same is not possible and the under-charges were demanded, which were paid by the appellant under protest.

The Railways in their reply have claimed that they had right to claim the under-charges as delivery at two different destinations was not possible. After framing the issues, the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, dismissed the claim of the appellant for refund of the under-charges, paid by them under protest.

I have considered the case of the appellant, heard the learned counsel for respondents and have also carefully gone through the file.

The short point in this case is as to whether on account of representation by the railway staff that the goods can be delivered at two

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different destinations without any further charges would operate as estoppel against railways ?

I am of the view that there are rules framed by the Railways regarding the freight charges to be claimed from a party. Under the said rules, it was not permissible to deliver the consignment at two different destinations without further charges, which were accordingly claimed. Therefore,, according to the Railways, the said error was corrected. The Railways has also relied upon Rule 115 of the Goods Traffic No. 41, Part-I, Volume-I, containing general rules for the acceptance, carriage and delivery of goods, which grants the right to the Railways to re-measure, re-weigh, re-classify the goods and re-calculate the rates and other charges, while delivering the goods at the place of destination. Section 78 of the Railways Act, 1989, also provides such right to the Railways.

I am of the view that since the Railways had the right to re-calculate the freight, therefore, despite the representation that such freight may not be charged, the Railways could always re-calculate the freight and claim the under-charges. Thus, there is no ground to interfere in the impugned judgment, passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh. Hence, all the three appeals are dismissed.

(KULDIP SINGH)
JUDGE

13.7.2016
sjks