

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO- 1395-1996 (O&M)
Date of decision: 04.05.2017

M/s Punjab State Industrial & Commercial Association

.....Appellant

versus

Union of India and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Vipul Sharma, Advocate for
Mr.Paul S. Saini, Advocate for the appellant
Mr.Sanyam Malhotra, Advocate for respondent nos.1 and 2

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

On the basis of the allotment made by the Director of Industries, Punjab, Chandigarh, one rake of coal comprising of 44 box wagons weighing 2655.2 MTs was dispatched from Sendra Bansjora Coiliery to the present appellant ex. Kusunda to Dhandari Kalan. It was found that there was overloading of the coal to the extent of 53 MTs. to the applicant consignee by respondent no.3 consignor. The Railway charged penal freight from the consignee. Consignee disputed his liability to pay the penal freight. The same was determined against him by the Railway Claims Tribunal.

I have heard learned counsel for the parties and have carefully gone through the file.

In this case 53 MTs excess coal was overloaded and delivered to the consignee, who accepted the same. In this way, the consignee

received 53 MTs coal free and used it. The Railway is entitled to charge penal freight in such cases from the consignee. The legal issue has already been settled by the Hon'ble Supreme Court in Jagjit Cotton Textile Mills vs. Chief Commercial Superintendent N.R. And othrs, 1998 AIR (SC) 1959.

In view of aforesaid facts, there are no merits in the present appeal. The same is accordingly dismissed.

04.05.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No