

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

CWP No. 19095 of 2014

Date of decision : 25.10.2017

Rahul Malhotra

...Petitioner

V/s

Union of India & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Shubham Jindal, Advocate for
Mr. Vikas Gupta, Advocate for the petitioner.

Mr. Jagdish Marwaha, Advocate for the respondents.

RAJAN GUPTA J.

Petitioner has sought setting aside of penalty of ₹1,17,610/- imposed upon him arbitrarily. It has been contended that similarly situated persons were allowed to lift the stock without imposition of penalty.

Brief factual background of the case is that petitioner placed order of 10 wagons of Pakastani cement which was sent by the company and reached railway station, Amritsar on 24.05.2014. Petitioner lifted 4 wagons out of 10 received, there being lack of transportation facility. Department issued gate pass to the petitioner for 10 wagons. On 29.05.2014 when petitioner reached the railway godown to lift the balance stock, officials allegedly demanded illegal gratification. On his refusal to oblige, they imposed penalty of ₹1,17,610/- on the ground of late lifting of stock. Petitioner disclosed the entire episode to respondent no. 2 but to no avail. As per averments, no penalty was imposed on similarly placed individuals. On notice being issued reply has been filed on behalf of the railways.

According to same, railway authorities were within their power to impose wharfage on the petitioner for late removal of balance consignments. However, the reply is evasive on the question whether any inquiry was made about allegations leveled against respondent no. 3 regarding demand of illegal gratification from the petitioner. It has been merely stated that said representation was found baseless. It appears that neither any inquiry was instituted nor any order was passed on the representation of the petitioner. Petitioner having no option deposited the amount demanded by the authorities. Stand of the petitioner that similarly placed persons were allowed to lift the goods without imposition of penalty remains unrebutted. Under the circumstances, action of the railways in imposing penalty on the petitioner is unsustainable and is hereby quashed. The concern authority shall also take a decision on the issue regarding demand of illegal gratification by respondent no. 3 at the earliest, in any case not later than three months.

October 25, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No