

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

CR No.6286 of 2014 (O&M)
Date of decision : 20.02.2018

Hindustan Petroleum Corporation Limited

...Petitioner

Versus

Union of India

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Atul Nehra, Advocate for the petitioner.

Ms. Vibha Tewari, Advocate for
Mr. Sandeep Vermani, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Hindustan Petroleum Corporation Limited is in the revision petition against the order passed by the Railway Claims Tribunal dated 16.04.2014 framing a preliminary issue, which reads as under:-

“Whether legal and valid notice under Section 106(3) of the Railways Act was served upon the respondent railways within stipulated period by the applicant company?”

Learned counsel for the petitioner has submitted that large number of petitions were filed before the Railway Claims Tribunal on the ground of illegal charge by the Railways. Large number of petitions were dismissed by the Railway Claims Tribunal on the basis of Section 106(3) of the Railways Act holding that the claim has not been lodged within the prescribed time. The order passed by the Railway Claims Tribunal was

upheld by this Court vide order dated 31.03.2016. However, Hon'ble the Supreme Court while deciding Civil Appeal No.21863 of 2017 decided on 14.12.2017 have held that these cases are not of overcharge but are of illegal charge. Hon'ble the Supreme Court has noticed that the payment was made by the petitioner-Corporation at the fixed rate on the basis of the notified distance which was subsequently corrected by another Notification upon introduction of Terminal Mechanism System (TMS) at Asaudah Railway Station, District Rohtak, Haryana.

In the present case also, the position is similar. In view thereof, the cases are not of overcharging and hence, not covered by Section 106(3) of the Railways Act.

In view of the aforesaid discussion, the impugned order is set aside.

Revision petition is allowed.

The Railway Claims Tribunal is requested to proceed with the case.

20.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No