

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 60 of 2018**

(Arising out of order dated 27.10.2017 passed by learned Single Judge in WPC- 1973 of 2012)

M/s Mangal Sponge Iron and Steel Pvt. Ltd. Through Its Managing Director, Suresh Kumar Agarwal S/o Shri M.C. Agarwal, 54 Years R/o Main Road Bilha, P.S. Bilha, District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. Union of India Through Its Secretary, Ministry of Railways, Rail Bhawan, Rafi Marg, Police Station Janiad, New Delhi.
2. South East Central Railway Through its General Manager Police Station Torwa. District Bilaspur Chhattisgarh.
3. The Chief Commercial Manager South East Central Railway Raipur, Police Station Civil Lines, Raipur, Chhattisgarh.
4. Chief Station Manager South East Central Railway, Hathbandh, Police Station Hathbandh, District Raipur, Chhattisgarh.
5. The Chief Weigh Bridge Clerk, South East Central Railway, Banspani, P.S. Banspani, District Keonjhar. Odisha.
6. Chief Commercial Manager South East Central Railway, Police Station Torwa, District Bilaspur, Chhattisgarh.

-----Respondents

For Appellant : Shri Praveen Das, Advocate.

For Respondents : Shri Abhishek Sinha, Advocate.

Hon'ble Shri PR Ramachandra Menon, Chief Justice &

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

Per PR Ramachandra Menon, CJ

20.02.2020

1. Correctness of the common verdict passed by the learned Single Judge, with regard to the issue projected in the writ petitions, as to the right of the Railways to re-weigh after loading the material, that too without granting an opportunity of hearing and the consequential imposition of penalty, are subjected to challenge in this appeal, by the writ petitioner concerned.

2. Heard the learned counsel for the appellant as well as the learned counsel for the respondents.
3. It is brought to the notice of this Court that the materials were loaded in the railways against the proper Railways Receipts (RRs), recording the weight, and the same was to be delivered at the destination in Bilaspur. In the course of such transport, for the reasons felt by the railways, they found it appropriate to have it re-weighed; which was done, upon which, the discrepancy in the weight noted earlier at the time of loading, was brought to light. Since there was excess weight, the party was let known and the proceedings were completed by imposing penalty to the requisite extent.
4. The petitioner, at the first instance, approached this Court by filing a writ petition, when the petitioner was relegated to move the railways by filing a representation; which same came to be considered and rejected. Then they approached this Court again by filing a writ petition which was considered alongwith connected cases involving similar grievance; questioning the power/authority of the Railway to re-weigh and also for not issuing any prior notice in this regard.
5. The learned Single Judge, after considering the rival pleadings and the materials on record, the relevant provisions in the Railways Act (Sections 65, 73, 74, 78, 79, 83) and the Indian Railway Commercial Manual held that, it was within the prerogative of the railways to have the goods re-weighed even after the issuance of Railways Receipts (RRs). It was also held that 'prior notice' with regard to such re-weighing was not required to be issued to the party and that the course pursued by the railways inflicting the penalty was sustained. The finding is supported by reasoning including judicial precedents.

6. The learned counsel for the appellant submits that in the course of the proceedings, the penalty multed upon the appellant to the extent of Rs.6,84,521/- was sought to be cleared by making an initial deposit of Rs.2 lakhs and time was sought to re-pay the balance by way of installments. It is also brought to the notice of this Court that, as on date, the entire liability towards the penalty has been cleared by the appellant.
7. We find that the course pursued by the learned Single Judge is in conformity with the relevant provisions of the statute and also in the light of the binding precedents. There is no scope for interference on merit. The entire liability has been satisfied as on date. Nothing else remains to be considered.
8. The appeal stands dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge