

31.08.2023
sayandeep
Sl. No. 34
Ct. No. 12

FMA 2296 of 2014
with
CAN 2 of 2013(Old CAN 11165 of 2013)

Essel Mining & Industries Ltd & anr.
-Versus-
Union of India & Ors.

Mr. Mainak Bose
Mr. Tridip Bose
Mr. Debjyoti Saha

.....for the appellants

Mr. Atarup Banerjee
Mr. Tapan Bhanja

.....for the respondents

The present appeal is filed challenging the order dated 30th September, 2011 made in the writ petition No. 16565(w) of 2011. The appellants filed the said writ petition seeking relief not to give effect and/or further effect to the notice dated 19th August, 2011 and letter dated 9th September, 2011. According to appellants, the respondents claimed wharfage and stocking charges from the appellants. The appellants were informed that PHOD Committee would hear the appellants on 14.07.2010. The respondent Railway kept silent and after retirement of one of the members made a fresh claim on 19.08.2011 by letter dated 09.09.2011. The learned counsel appearing for the appellants made submissions before the learned Judge that appellants can approach Railways Rates Tribunal or any other forum only if the letter dated 09.09.2011 is set aside. On the other hand, the learned Additional Solicitor

General of India represented before the learned Single Judge that letter dated 09.09.2011 does not preclude the appellants from approaching the Railway Rates Tribunal.

The learned Judge considering Sections 33 and 36 of the Railways Act, 1989, rejected the claim of the appellants.

Against the said order of rejection, the appellants have come up with the present appeal.

Learned counsel appearing for the appellants extensively referred to the grounds raised in the appeal and documents annexed to the application submitted that fresh claim of 19.08.2011 and letter dated 09.09.2011 were issued in a mechanical manner and unless letter dated 09.09.2011 is set aside, appellant cannot approach the tribunal. Both claim of 19.08.2011 and letter dated 09.09.2011 were issued when PHOD Committee was not in force and prayed for allowing the writ petition.

Heard learned counsel for the parties and perused the materials on record.

As per provisions of Railway Act, a person is entitled to approach the Railways Rates Tribunal for their claim and redressal of their grievances. Sections 33 and 36 empowers such a remedy. The claim dated 19.08.2011 which is communicated by the letter dated 09.09.2011 is only the decision taken by the PHOD

Committee. In view of the same, the contention of the learned counsel for the appellants that respondents made claim in a mechanical manner cannot be accepted. As per Sections 33 and 36 of Railways Act, 1989, it is always open to the appellants to approach to the Railway Rates Tribunal or any other competent forum for their grievances.

There is no error in the order of the learned Single Judge warranting interference by this Court.

From the above reasons, appeal fails and dismissed.

There shall be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)