

Aswale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 3259 OF 1986

ANJALI
TUSHAR
ASWALE

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Maharashtra Small Scale Industries

Development Corporation Ltd.

..Plaintiff

Vs.

Union of India

..Defendant

Mr. Pralhad Paranjpe a/w Rahul Punjabi i/b. Manish Kelkar, for the Plaintiff.

Mr. T. J. Pandian, for the Defendant.

CORAM:- B. P. COLABAWALLA,J.

DATE :- MARCH 14, 2023.

P. C.:

The present Suit is filed by the Plaintiff seeking the following reliefs:

- a. *“That the defendants be ordered and decreed to pay to the plaintiffs Rs.2,61,144.78/- (Rupees two lacs sixty one thousand one hundred forty four and seventy eight paise) with further interest on Rs.1,67,942/- at the rate of 18 per cent per annum from the date of filing of suit till payment.*
- b. *For such further and other reliefs as the nature and circumstances of the case may require.*
- c. *Defendants be ordered to pay to the plaintiffs cost of the suit.”*

2 On 9th January, 2023 when the matter was called out the learned Counsel appearing for the Respondent-Ministry of Railways had raised an objection in relation to the maintainability of the Suit in view of the provisions of the Railway Claims Tribunal Act, 1987.

3 The relevant provisions of the Railway Claims Tribunal Act, 1987, and more particularly Sections 13 and 15 thereof read as follows:

- “13. Jurisdiction, powers and authority of Claims Tribunal.—(1) The Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any civil court or a Claims Commissioner appointed under the provisions of the Railways Act,—*
- (a) relating to the responsibility of the railway administrations as carriers under Chapter VII of the Railways Act in respect of claims for—*
- (i) compensation for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to a railway administration for carriage by railway;*
- (ii) compensation payable under section 82A of the Railways Act or the rules made thereunder; and*
- (b) in respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway.*
- [(1A) The Claims Tribunal shall also exercise, on and from the date of commencement of the provisions of section 124A of the Railways Act, 1989 (24 of 1989), all such jurisdiction, powers and authority as were exercisable immediately before that date by any civil court in respect of claims for compensation*

now payable by the railway administration under section 124A of the said Act or the rules made thereunder.]

[(1B) The Claims Tribunal shall also exercise, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), the jurisdiction, powers and authority conferred on the Tribunal under Chapter VII of the Railways Act, 1989 (24 of 1989).]

(2) The provisions of the [Railways Act, 1989 (24 of 1989)] and the rules made thereunder shall, so far as may be, be applicable to the inquiring into or determining, any claims by the Claims Tribunal under this Act.

...

15. Bar of jurisdiction.—On and from the appointed day, no court or other authority shall have, or be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in [sub-sections (1), (1A) and (1B)] of section 13.”

4 Upon perusal of Sections 13 and 15 of the Railway Claims Tribunal Act, 1987, it is clear that the present Suit falls under Section 13 (1) (b) thereof which pertains to claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway. Therefore, the provisions of Section 13 of the Railway Claims Tribunal Act, 1987 apply to the case at hand. Once this is the case, then this Court would not have jurisdiction to entertain the present Suit by virtue of the bar set out in Section 15 of the Act.

5 Further Section 24 of the Railway Claims Tribunal Act,

1987 reads thus:

“24. Transfer of pending cases.—(1) Every suit, claim or other legal proceeding (other than an appeal) pending before any court, Claims Commissioner or other authority immediately before the appointed day, [[or the date of commencement of the provisions of sub-section (1A), or, as the case may be, the date of commencement of the provisions of sub-section (1B)] of section 13], being a suit, claim or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after the appointed day, [or the date of commencement of the provisions of sub-section (1A), or, as the case may be, the date of commencement of the provisions of sub-section (1B)] of section 13] the case may be, the date of commencement of the provisions of sub-section (1B)] of section 13], within the jurisdiction of the Claims Tribunal, shall stand transferred on [that day or, as the case may be, date,] to the Claims Tribunal.”

6 On a perusal of Section 24 of the Railway Claims Tribunal Act, 1987, it is clear that every suit, claim or other legal proceeding (other than an appeal) pending before any Court, Claims Commissioner or other authority immediately before the appointed day, shall stand transferred to the Claims Tribunal. In view of the express provisions of Section 24 of the Railway Claims Tribunal Act, 1987, the present Suit will therefore, have to be transferred to the Claims Tribunal.

7 Accordingly, in view of the specific provisions for transfer of pending cases under Section 24 of the Railway Claims

Tribunals Act, 1987, the above captioned Suit is transferred to the Railway Claims Tribunal alongwith the amount of Rs. 8,96,627/- (Eight Lakh Ninety Six Thousand Six Hundred and Twenty Seven Only) deposited by the Railway Authorities before this Court on 10th September, 2007 vide Cheque No. 864282 dated 7th September, 2007.

8 The said Suit shall be transferred to the Railway Claims Tribunal and the same shall be dealt with in accordance with law. The Registry is directed to take the necessary steps in that regard.

9 Considering that the matter is of the year 1986, the Railway Claims Tribunal is requested to decide the claim of the Plaintiff herein as expeditiously as possible and preferably on/before 31st December, 2023.

10 The Suit is accordingly disposed of.

11 This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(B.P.COLABAWALLA J.)