

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. FAO-8548-2014

INDIAN OIL CORP. LTD ... Appellant

Versus

UNION OF INDIA ... Respondent

2. FAO-8549-2014

INDIAN OIL CORP. LTD ... Appellant

Versus

UNION OF INDIA ... Respondent

3. FAO-8550-2014

INDIAN OIL CORP. LTD ... Appellant

Versus

UNION OF INDIA ... Respondent

4. FAO-8551-2014

INDIAN OIL CORP. LTD ... Appellant

Versus

UNION OF INDIA ... Respondent

5. FAO-8552-2014

INDIAN OIL CORP. LTD ... Appellant

Versus

UNION OF INDIA ... Respondent

6.	FAO-8553-2014	
	INDIAN OIL CORP. LTD	... Appellant
	Versus	
	UNION OF INDIA	... Respondent
7.	FAO-8554 -2014	
	INDIAN OIL CORP. LTD	... Appellant
	Versus	
	UNION OF INDIA	... Respondent
8.	FAO-8555 -2014	
	INDIAN OIL CORP. LTD	... Appellant
	Versus	
	UNION OF INDIA	... Respondent
9.	FAO-8556-2014	
	INDIAN OIL CORP. LTD	... Appellant
	Versus	
	UNION OF INDIA	... Respondent
10.	FAO-8557-2014	
	INDIAN OIL CORP. LTD	... Appellant
	Versus	
	UNION OF INDIA	... Respondent

11. **FAO-8558-2014**

INDIAN OIL CORP. LTD	... Appellant
Versus	
UNION OF INDIA	... Respondent

12. **FAO-8559-2014**

INDIAN OIL CORP. LTD	... Appellant
Versus	
UNION OF INDIA	... Respondent

13. **FAO-8560-2014**

INDIAN OIL CORP. LTD	... Appellant
Versus	
UNION OF INDIA	... Respondent

14. **FAO-8561-2014**

INDIAN OIL CORP. LTD	... Appellant
Versus	
UNION OF INDIA	... Respondent

15. **FAO-8562-2014**

INDIAN OIL CORP. LTD	... Appellant
Versus	
UNION OF INDIA	... Respondent

... Appellant

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Versus

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Versus

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... Appellant

Versus

... Respondent

26. **FAO-8573-2014**

INDIAN OIL CORP. LTD	... Appellant
Versus	
UNION OF INDIA	... Respondent

27. **FAO-8574-2014**

INDIAN OIL CORP. LTD	... Appellant
Versus	
UNION OF INDIA	... Respondent

28. **FAO-8575-2014**

INDIAN OIL CORP. LTD	... Appellant
Versus	
UNION OF INDIA	... Respondent

Date of Decision:-**17.07.2023**

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. M.S. Rana, Advocate and
 Mr. Ashish Kapoor, Advocate
 for the appellant.

 Mr. Amit Sharma, Advocate
 for the respondent.

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KARAMJIT SINGH, J. (Oral)

1. This order will dispose of above titled appeals involving same questions of fact and law.
2. The facts are taken from **FAO-8548-2014**. This appeal has been filed by the appellant-Indian Oil Corporation against the order dated 23.4.2014 passed by the Railway Claims Tribunal, Chandigarh Bench, whereby the claim application filed by the appellant for grant of compensation of access recovery of siding and shunting charges at Jalandhar Terminal were dismissed.
3. The counsel for the appellant-Indian Oil Corporation submits that the Tribunal without framing any issues with regard to disputed questions of fact or of law, dismissed the claim petition with observation that the same is not maintainable and is time barred and further observed that the claim petition deserves to be dismissed for want of statutory notice under Section 106(3) of Railways Act. The counsel for the appellant further submits that it was mandatory for the Tribunal to frame issues and to give its finding on the issues so framed as per mandate of Rule 21 of Railway Claims Tribunal (Procedure) Rules 1989 (for short '**Rules of 1989**') and the impugned order has been passed in complete violation of the aforesaid mandatory provisions of law. The counsel for the appellant further submits that the requirement of service of notice as per provisions of Section 106 of the Railways Act in the instant case, is also debatable issue and could not be decided without framing of issue in this regard. The counsel for the appellant further contends that in the light of the fact that impugned order is passed by

the Tribunal in contravention of mandatory provisions of law as has been submitted above, the same deserves to be set aside. In support of his contentions, the counsel for the appellant placed reliance on decision of Gauhati High Court in **MFA-63-2009, M/s Hills Trade Agencies vs. Union of India and Another**, decided on **16.3.2018**.

4. On the other hand the counsel appearing on behalf of the respondent-UOI while supporting the impugned order, submits that there was no need for the Tribunal to frame issues as the claim petition was clearly time barred and even otherwise not maintainable for want of notice under Section 106(3) of the Railways Act. It is further submitted that the concerned Railway receipts as alleged by the appellant are not complete as no specific details of the same are provided by the appellant in the claim petition. The counsel for the respondent further submits that the impugned order has been passed by the tribunal in consonance with the provisions of Railways Act, 1989 and Railway Claims Tribunal Act, 1987 and the Rules framed thereunder.
5. The brief facts of the case are that the appellant-Indian Oil corporation filed claim application seeking refund of access recovery of siding and shunting charges at Jalandhar Terminal as the appellant has POL siding at Suchi Pind, Jalandhar and siding/shunting charges being levied by Indian Railway for placement and removal of rakes. That during the period 2004-2007, Indian Railways kept on charging 61 minutes for siding and 69 minutes for shunting as against 42 minutes for siding and 21 minutes for shunting as established during trials on 24.3.2007 and considering the shunting timing as 42 minutes and siding time as

21 minutes, the excess siding/shunting charges were recovered by the respondent from the appellant for the period April-May, 2006 and the said excess amount comes out to be ₹54,280/- and the matter was reported to the Indian Railways and cause of action accrued to the appellant vide letter dated 3.6.2009, when the Indian Railways declined the request made by appellant for refund of aforesaid excess amount.

6. The claim petition was contested by the respondent and the Tribunal after hearing both the parties dismissed the said claim petitions vide impugned order dated 23.4.2014.
7. I have considered submissions made by counsel for the parties.
8. Admittedly in the present case, the Tribunal while deciding the matter in dispute did not frame any issues on the basis of the pleadings of the appellant and the defence taken by the respondent and further the parties were not given any opportunity to adduce their evidence. The provisions of Rule 21 of Rules of 1989 provides for framing and determination of issues by the Tribunal. In compliance of the aforesaid Rules of 1989, the Tribunal should have framed issues with regard to proposition of facts and law, on which the parties are at variance and requires adjudication by the Tribunal. While recording the issues, the Tribunal has to distinguish between those issues, which in its opinion concern points of facts and those which concern points of law. Rule 21 further provides that after framing the issues, the Tribunal shall proceed to record evidence thereon which each party may desire to produce.

9. It is evident that in the present case the aforesaid mandatory provisions of Rule 21 of Rules of 1989 are totally ignored by the Tribunal and the impugned order dismissing the claim petitions of the appellant has been passed without framing any issue either on fact or law and without recording any evidence and the findings regarding maintainability of the claim petition were given against the appellant just after giving opportunity of hearing to both the parties, in violation of Rule 21 of Rules of 1989.
10. For the aforesaid reasons, the impugned order is not sustainable under law and is hereby set aside and the claim petitions are remanded back to the Railway Claims Tribunal, Chandigarh Bench to decide the matter afresh, after framing issues of fact as well as law and then to record the evidence of both the parties and to give its findings on all the issues so framed as per law particularly in accordance with procedure laid down in Rule 21 of Rules of 1989.
11. The parties are directed to appear before the Tribunal concerned on **17.8.2023**.
12. The appeals stand disposed of in aforesaid terms.

17.07.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No