

03.12.2025  
Court No.13  
Item No.3  
AP

**FMA 1623 of 2025  
With  
CAN 2 of 2025**

**Union of India and Ors.  
Vs.  
Harish Sharma and Ors.**

Mr. Kalyan Kumar Chakraborty  
Mr. Sourav Sengupta

.... For the Appellants.

Mr. Saptarshi Roy  
Ms. Kakali Das Chakraborty

.... For the Respondent.

Mr. Ansar Mondal  
Mr. Swapan Kumar Pal

.... For the State.

1. This appeal is assigned to this Court arises out of a judgement and/or order dated 27<sup>th</sup> March, 2025 in WPA 8812 of 2023 (**Harish Sharma Vs. Union of India & Ors.**) passed by a Single Bench of this Court. The grievance of the writ petitioner/appellant before the Single Bench was that the goods dispatched by him from Secunderabad and Rajkot were found to be of declared weight and freight was duly paid by the writ petitioner thereof. However, when the consignments reached Shalimar in Kolkata and upon re-weighment, the goods were found to be in excess of the weight declared. Additional charges were imposed on the appellant, which he paid without prejudice to his rights and contentions.

2. The writ petitioner/appellant challenged the weighment. In an earlier proceeding in respect of self same cause of action, the order dated 6<sup>th</sup> January, 2023

in WPA 29148 of 2022 the Single Bench of this Court had directed the in motion weighing machine at Shalimar Railway Station to be tested in presence of the writ petitioner. Such test was duly conducted by the railways in the presence of the representative of the writ petitioner Mr. Perth Singh and the officials of the Legal Metrology department of the State on 17<sup>th</sup> January, 2023. Upon re-measurements of the empty rakes taken several times a report came to be prepared duly signed by the railways and the officials of the Legal Metrology department of the State. The appellant's representative left the place of inspection without signing on the report.

3. The Single Bench, however, ignoring the report of the re-measurement ordered by an earlier Single Bench, went on to consider the railway manual and the merits of the report of the re-weighment in the presence of the petitioner's representative. The Single Bench further sought to reason by holding that the weightage of consignment that is sealed and not perishable by moisture or other factors could not have differed from the station of loading/dispatch to the station of delivery/dispatch.

4. The findings of the Single Bench to say the least are based on conjecture and surmise. There can be many reasons as to why a consignment can weigh differently than from what it was at the place of loading. It could either be a mistake at the place of loading, defective

weighing mechanism both at the place of loading or the place of discharge or even a result of a corrupt practice.

5. These are disputed questions of fact, which a writ Court cannot enter into. Similar cases have been referred by this Court to be agitated before the Railways Claims Tribunal, specially constituted under Statute, entrusted with powers of determining by trial of evidence of any dispute raised by any consumer of the services of the railways.

6. In that view of the matter, leaving remedies open to the writ petitioner/respondent that he may avail as he may be advised in law, the impugned order dated 27<sup>th</sup> March, 2025 passed by the Single Bench is set aside.

7. Accordingly, FMA 1623 of 2025 is allowed and disposed of. Consequently, connected pending application being CAN 2 of 2025 is also disposed of.

8. There shall be no order as to costs.

9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**

**(Ajay Kumar Gupta, J.)**