

17-03-2026
ct no. 10
Sl. 4
RP

WPA 5361 of 2026

Mohd. Abdul Wadood
-Versus-
Union of India & Ors..

Mr. Saptarshi Roy,
Ms. Kakali Das Chakraborty
...for the petitioner

Ms. Manju Agarwal,
Ms. Ranjana Chatterjee
...for the Respondent (UOI)

1. The petitioner in the instant case is a proprietor of a Proprietorship Firm carrying on business under the name and style of S.S Railway Cargo Service and is engaged in the business of transportation of goods of various nature being perishable as well as non-perishable commodities across the country through Railways.

2. The petitioner in the instant case being one of the Registered Lease Holders with the Indian Railways participated in a tender being No. Lease-KGP-24-14 LOT No. 18045-18046-VP-2-SHM-HYB-24-1 dated 16.08.2024 initiated by the Kharagpur Division of South Eastern Railway and upon such participation the petitioner has been declared to be the highest bidder.

3. Accordingly, the lease agreement has been executed by the railways which shall remain

operational for the period of 2 years being the expiry date of 03.09.2026.

4. Main grievance of the petitioner concerns the issuance of the notice of termination dated 21.02.2026, which is based on an alleged third instance of overloading detected during a joint re-weighment conducted by the Railway Authorities.

5. The learned Counsel for the petitioner submits that for the purpose of transportation of consignment through railway lease basis, availed one Parcel Van Indent at Hyderabad on 17.02.2026 having carrying capacity of 24 tonnes in train no. 18045 East Coast Express for transportation to Shalimar being a station falling within the zone of South Eastern Railway.

6. It is submitted that upon completion of loading and before departure, the consignment has been weighed at Hyderabad Station by the Railway officials using an in motion weigh Bridge and has found to be within the permissible limit i.e, 21040 kgs.

7. The said train has been scheduled to reach Sealdah on 18.02.2025 and prior to its arrival at Shalimar Station the Railways conducted another in-motion weighment of the loaded Parcel Van being SC-203414/C without notice to the petitioner and found the consignment to be overloaded by 1330 kgs.

8. On the basis of the said weighment, the Railway Authorities at Shalimar issued a punitive demand for overloading to the tune of Rs.32019/-.

9. The petitioner under protest has already paid the punitive charges for the release of the consignment.

10. The petitioner made a representation to the respondent authorities requesting a re-weighment of the Parcel Van attached to the East Coast Express Hyderabad to Shalimar but the request remains pending for consideration.

11. Being aggrieved by such action the petitioner approached this Court by filing a Writ Petition no. WPA 4403 of 2026 dated 23.02.2026 for seeking direction for weighment of the consignment under Section 79 of Railways Act 1989 (hereinafter referred to as the 'said Act') before taking delivery, citing discrepancies in the weighment recorded at the originating station.

12. The said writ petition has been disposed of with certain directions as mentioned in paragraph 22 to 23 which is reproduced below:

"22. In view of the above discussion, the following discussions are adumbrated hereinabove:

- a) The petitioner is directed to deposit the entire security amount to the tune of Rs. 32,019/ upon compliance of all statutory formalities within 48 hours from the date of communication of this order.*
- b) The respondents shall conduct a fresh weighment of the consignment in presence of the petitioner at the nearest alternative electronic in-motion weighbridge or by manually within a period of 48 hours from the date of the deposit made by the petitioner on account of the security amount.*

- c) *Upon fulfilment of all the conditions the respondents shall immediately release the consignment in favour of the petitioner, preferably within 24 hours.*
- d) *No demurrage or warfage charges shall be levied further till the completion of the reweighment process. The final liability of the petitioner shall be determined based on the results of the fresh weighment. If the consignment is found to be within the permissible limit plus the statutory tolerance, the security amount deposited to the tune of Rs. 32,019/- shall be refunded to the petitioner forthwith.*
- 1.) *The re-weighment has to be done by adopting an alternative mode of weighment upon payment of costs to be borne by the petitioner.*
- g) *The entire exercise shall be completed mandatorily within a period of two weeks.*

23. In view of the above the writ petition stands disposed of. All other consequential and connected proceedings shall abide by the result of the process of re-weighment..”

13. In pursuance of the order of this Court ,a reweighment of the consignment has been undertaken on 27.2.2026 and it has been ascertained that the weight falls within the permissible tolerance limit.

14. It is submitted by the petitioner that result of the joint re-weighment has satisfied the petitioner thereby, granting relief from the issuance of the termination notice to the third instance of overloading .

15. It is submitted that during the pendency of the writ petition the railway authorities issued a notice of termination of the contract dated 21.02.2026.

16. Subsequent to the order passed by this Court the railway authorities have initiated proceedings for terminating the contract which is due to expire on 03.09.2026.

17. The petitioner submits that since the result of the re-weighment favoured the petitioner, the termination of the contract could not be given any effect.

18. The petitioner further submits and produced certain documents which have been brought on record by way of a supplementary affidavit affirmed on 16.03.2026 and the same be kept on record.

19. The petitioner draws the attention of this Court from a document dated 03.03.2026 being annexure P-1 to the supplementary affidavit which transpires with regard to the re-weighment of the terminated contract of LVPH-II by the train no. 18045/18046 EX-SHM to CHZ& back, which is reproduced below:

“In compliance with the Order passed by the Hon'ble High Court at Calcutta in the above-referred case and in terms of Para 22(b) thereof, fresh weighment of the leased consignment was conducted in the presence of you/your authorised representative at the nearest alternative Electronic In-Motion Weighbridge (EIMWB) at Andul (ADL) on 27.02.2026. Thereafter, manual weighment was also conducted at SHM on 28.02.2026.

Subsequent to completion of the aforesaid weighment process, delivery of the leased consignment was duly granted in your favour at SHM Parcel Office.

In this regard, it is pertinent to mention that as per the results of both the weighments, the weight of the leased parcel consignment was found to be within the permissible limit plus statutory tolerance of leased LVPH-II bearing No. SC-203414.

In view of the above, you are hereby advised to submit an appeal for re-instatement of the terminated lease contract under reference (1) through the IREPS portal, as per extant policy provisions of Railway Board's Freight Marketing Circular 12 of 2024.

You are also requested to submit an appeal for refund of the punitive charges amounting to Rs. 32,019/- (Rupees Thirty Two Thousand Nineteen only) in terms of Para 22(e), deposited vide Money Receipt No. 8005644883 dated

25.02.2026, to this office at the earliest to enable further processing of the case at this end”

20. The notice dated 11.03.2026 is issued by the railway authorities to the petitioner stating inter alia, that keeping the advice dated 03.03.2026 in abeyance, the termination order shall continue to remain in force and prevail. It is based on a complaint lodged by a third party at Shalimar GRP concerning the missing of packages.

21. It is held that there is a reduction in weight recorded during the subsequent weighments, indicating that certain consignments have been removed by the Parcel Van after detection of overloading.

22. The petitioner draws the attention of this Court to the Clause 17.2 and 18 of the Freight Marketing Circular no. 11 of 2022 which stipulates that the Railway Authorities are obliged to issue a single notice prior to termination to the contractor, a requirement that has not been fulfilled in the present case.

23. The petitioner further relies upon Clause 14.3 and 14.4 concerning the weighment procedure and the punitive charges for overloading which are reproduced below:-

“14.3 If overloading (more than the permissible tolerance limit-ie, 1,0 Tonne in case of Parcel Vans, and 5% of the permissible carrying capacity in case of SLR compartments) is detected on more than two occasions in any one contract, the contract shall be terminated with forfeiture of Security Deposit. For avoidance of doubt, contract will be terminated in case of detection of third overloading beyond the prescribed tolerance limit.”

24. In this context it is submitted that a contract can only be terminated in case there is a detection of third overloading beyond the prescribed tolerance limit, whereas in the instance case, as per the report of the Railway Authorities, it appears that after re-weighment the weight of consignment has been very much within the permissible limit.

25. The learned Counsel for the Railway Authorities vehemently opposes the contention of the petitioner and submits that it is very evident from the letters and the complaint lodged by the third party with regard to the conduct of the petitioner that, though after re-weighment in pursuance of the Court's order the weight has been found within the tolerance limit but the notice of reinstatement issued by the Railway Authorities are kept in abeyance on the basis of a complaint lodged by a third party.

26. It is further submitted that despite there being a provision for appeal under Clause 25 of the FM Circular No. 11 of 2022 the petitioner has not availed of the same and the matter remains unresolved.

27. It is further submitted that the initial weighment as conducted on 18.02.2026 established overloading of the leased LVPH-II and accordingly,

the said weightment has been conducted in accordance with law.

28. The subsequent reduction in weight during re-weighment is attributable to the unauthorized removal of consignments after the first weighment for the reasons enumerated below:

*“One door remained under private lock not OTL/Padlock of the lease holder without seal by KGP Parcel)
There was a time gap of -4.5 hours between weighment and placement of VP at SHM Yard.
The wagon remained unmanned/unguarded for 4-5 hrs from weighment to placement at U/L line No 22), enabling interference of lease holder.)
Discrepancies between manifested packages and delivered packages, along with a Missing Diary lodged at GRP Shalimar by a customer, clearly establish post-weighment tampering and removal of consignments.”*

It is further submitted that the lease-holder is a habitual offender, with two prior confirmed instances of overloading, including cases validated through Court directed re-weighment. After the issuance of letter of reinstatement dated 03.03.2026 in order to comply in terms of the order of Court, a further examination has been conducted by the competent authority.

29. Subsequently, a serious procedural lapse on the part of the lease-holder has come to light including non-sealing of the VPH door at KGP by using a private key lock instead of the prescribed OTL/padlock and keeping the wagon unmanned and unguarded for 4-5 hours from the time of initial weighment at PDPk-EIMWB till placement at U/L line no. 22. In view of those lapses, coupled with the ongoing investigation by GRP/SHM regarding

missing packages, which contributed to the reduction in weighment, the reinstatement letter has been withdrawn by the Sr. DCM/KGP on 11.03.2026.

30. In conspectus of the above, I find that despite the order of this Court referred to in Paragraph 23, the Railway Authorities have failed to give effect to the terms of the order dated 23.02.2026.

31. After hearing the rival contentions of the parties, I am of the considered view that the order of termination is a consequential and procedural step arising from the weighment of the consignment, and also indicates that, upon conducting such reweighment, the Railway Authorities have found the consignment to be within the permissible limit.

32. In view of the above, I find that issuance of a letter dated 11.03.2026 reflects arbitrariness, and high handedness in keeping the order of reinstatement in abeyance and on the ground of which the order of termination is not warranted.

33. It is explicit from the Clause 14.4 of the FM Circular No.12 of 2022 that if the packages are found to be in excess of the permissible limit, a fine of Rs.500/- per vehicle shall be recovered, even if the total weight of the consignment remains within the permissible limit.

34. The question of termination of contract arises only in cases of serious misconduct, including, but

not limited to, violation of Railway Act, 1989, engagements in acts of moral turpitude or the commission of any unlawful acts.

35. Since the contract still subsists and the Railway Authorities have held that the weighment of the consignment is within the permissible limit, the petitioner shall be at liberty to continue its operation until the date of expiry of the contract that is, 03.09.2026.

36. In view of the above, the impugned termination notice dated 11.03.2026 is quashed and set aside, on the grounds of procedural impropriety and violation of natural justice as the discrepancy in packages has not been addressed through a show cause process.

37. The petitioner shall be allowed to resume duties immediately. This order shall remain in force and the petitioner shall continue until the date of expiry of the contract i.e. 03.09.2026.

38. In the event, if any future default or proven misconduct by the petitioner during the remaining term of the contract, the Railway Authority shall be at liberty to initiate fresh proceeding in accordance with law.

39. In view of the re-weighment result favouring the petitioner and the notice of termination being set aside, the respondents are directed to refund the punitive demand amount, if any, deposited by the

petitioner within a period of six weeks from the date of receipt of this order.

40. The writ petitioner being WPA 5361 of 2026 is disposed of there shall be no order as to costs.

(Smita Das De, J.)