IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A. No. 293 of 2018

M/s Steel Authority of India Limited/ Bokaro Steel Plant, O/o Bokaro Steel City P.O. and P.S. Bokaro Steel City Dstt- Bokaro, through its Asstt. General Manager A. K. Upadhyay aged about 56 years Son of Sri S.N. Upadhyay R/O Bokaro Steel City Bokaro P.O- Sector 1, P.S- Sector 1, Bokaro Steel City, District Bokaro.

..... … Appellant

Versus

Union of India through General Manager, South Eastern Railway, Kolkata, P.O., P.S. and District-Kolkata.

..... … Respondent

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant : Mr. Saket Upadhyay, Advocate.
For Sole Resp.-Railway : Mr. Sunil Kumar, C.G.C.

13/ 24.09.2026 Heard Mr. Saket Upadhyay, learned counsel appearing for the appellant and Mr. Sunil Kumar, learned CGC appearing for the respondent-South Eastern Railway.

2. This appeal has been preferred against the judgment dated 15.12.2017, passed in Case No. OA(III)/RNC/2010/0010, by the learned Railway Claims Tribunal, Ranchi Bench, Ranchi, whereby, the claim application of the appellant has been dismissed by the learned Railway Claims Tribunal, Ranchi on contest without costs.

3. Mr. Saket Upadhyay, learned counsel appearing for the appellant submits that the appellant has filed a claim application for getting the refund of Rs. 3,99,11,740/- from the respondent-Railway towards the excess freight charges collected by respondent-Railway. He next submits that the said claim application was filed under Section 16 of the Railway Claims Tribunal Act for getting the aforementioned refund from the respondent-Railway towards the excess freight charges

collected by the respondent-Railway. He further submits that in the claim application, it has been claimed that the appellant is using railway- traffic services for transporting its raw materials from different station like Kiriburu, Meghataburu, Bolany to destination station i.e Bokaro Steel Plant. He then submits that the Railway authority used to carry the consignment, in rake containing about 56-58 wagons under one-Railway Receipt. It was also claimed that the Railway authority used to change the freight in respect of consignment for planned movement under 140 Class and for non-planned movement under 160 Class. He also submits that in terms of CBT programme, for raw-material requirement to the Railway Authorities, which was approved by them, and the entire freight movement was made, as per the plan submitted by the appellant. He then submits that the appellant-M/s SAIL Company had booked a consignment of Iron-Ores from Kiriburu, Meghataburu Mines, served by Station Code Nos. 07221439 and 07221463 under Southern Eastern Railway to Bokaro Steel Plant, Bokaro, in different railway -receipt period between 01.04.2005 to 14.05.2005. He further submits that for the said, the freight was charged under Class 160, whereas the appellant had given one letter for planned-traffic, according to which, the freight should have been charged under Class 140.

4. Learned counsel appearing for the appellant submits that in light of Rates Circular No. 17 of 2005 dated 23.03.2005 and by way of Clause-5.0 of the circular, so far Iron Ore traffic for steel plant is concerned the charge at Class-140 has been fixed and for the others Class-160 has been fixed, however, Class-160 has been charged by the respondent-Railway by way of contravening the provisions of Clause-5.0 of the said circular dated 23.03.2005 and that has been further clarified at serial No. 59 of the IRCA Goods Tariff No. 44 Part-I (Vol.-II), which is the Annexure of the said circular.

5. Learned counsel further refers to the Rates Circular No. 26 of 2005 dated 11.05.2005 and submits that in light of clause-2.1, in which Clause No.-5.0 of the Board's circular dated 23.03.2005 has been deleted and further in view of clause-2.4 of the said circular, S. No. 59 indicating the main community head 'ores' has further been deleted and Class-160 has been fixed. By way of referring clause-3.0 of the circular dated 11.05.2005 he submits that said has been made effective with effect from 15.05.2005. He submits that since the claim of the plaintiff was with effect from 01.04.2005 upto 14.05.2005 and the said deletion will not apply in the case of the appellant.

6. Learned counsel appearing for the appellant further submits that the CBT plan has been filed by the appellant on 29.03.2005 before the Executive Director of Railway Board, however, the same has not been approved. He submits that once within time, it is filed, it is the duty of the Railway either to reject or allow the said plan and in view of that the liability cannot be fastened upon the appellant. On these grounds, he submits that the impugned order, by which, the refund has been refused may kindly be set aside and appropriate direction may kindly be issued.

7. On the other hand, Mr. Sunil Kumar, learned CGC appearing for the respondent-Railway submits that the CBT plan was not approved. He next submits that in para-8 of the impugned order, the issues have been framed to decide the claim case of the appellant by the learned tribunal. He further submits that in light of Section 17 of the Railway Claims Tribunal Act, dispute relating to Goods can be filed within three years from the date, on which, the goods in question were entrusted to the Railway Administration for carriage by the Railways. He also submits that although the said application was filed within time, however, that was not under the signature of the authorized person of M/s SAIL company. He then submits that after four years i.e. in the

year 2012, a power of attorney was submitted, by which, it has been submitted that one Shri Ratan Lal Singh, Assistant Manager (RM) of M/s SAIL has been authorized to file the claim application. He next submits that the learned tribunal has also considered Order-29 Rule-1 of the CPC relating to the procedure of filing the suit by the corporation , which prescribed to file, by the Secretary or by any Director or other Principal Officer of the Corporation, who is liable to depose the facts of the case. He further submits that the learned tribunal has rightly held that there is no resolution and the said claim has not been verified either by Director or by other Principal Officer of the company. He submits that this is one of the lacunae in filing the of the claim case. He also submits that although a notice under Section 106 of the Railways Act has been issued, however, the reasons in light of Section 107 thereof has not ben disclosed, which is another defect of statutory provision. He further submits that the plan was not approved and elaborate discussion has been made by the learned tribunal and considering all these aspects including two circulars, the learned tribunal has rightly passed the said order. On these grounds, he submits that this appeal may kindly be dismissed.

8. In view of the above submissions of respective parties, the court has gone through the impugned order including the trial court records, from which, it transpires that it is an admitted position that the claim is of between 01.04.2005 to 14.05.2005.

9. This is not the case due to wrong filing of the claim petition, it has been rejected, as the claim case has been accepted, however, power of attorney was filed later on may be after four years, which further clarified the things that the Board resolution was provided in the form of power of attorney, in view of that said requirement of filing the petition on behalf of the company / corporation has been fulfilled.

10. Further notice under Section 106 of the Railways Act, 1989 is also the part of the tribunal's record and on perusal of the said legal notice, it has been stipulated as under:-

Before,
The State Railway Claim Tribunal
Ranchi Bench, Ranchi
(Old case No. OR-8007/08
New Case No. O.A. (iii)/RNC/2010/0010.

IN THE MATTER OF
An application on Behalf of the applicant
And
IN THE MATTER OF

Steel Authority of India Ltd. --------Applicant

VERSUS

Union of India through G.M., E.C. Railway, Hajipur & Ors.
------- Respondents

The humble application on behalf of the applicant.

Most Respectfully Sheweth

1. The original copies of the notices under section 106 alognwith its enclosures is being herewith The attested photocopies of the originals have already been submitted before this Tribunal.

2. That this application is been made bonafide and in the interest of justice.

It is, therefore, humbly prayed that originals may be kept on record and marked as exhibits

And for this the applicant shall ever pray

Sd/-
पूनम सिंह
POONAM SINGH
वरीय प्रबंधक (वित्त एवं लेखा)
Sr. Manager (F&A)
सेल, बोकारो स्टील प्लांट
SAIL

11. In view of the above, it transpires that Section 107 of the Railways Act, 1989 relates to restriction of filing the petition in absence of Section 106 thereof has already been complied with. Thus, the argument of Mr. Sunil Kumar, learned CGC appearing for the

respondent-Railway with regard to filing of defective claim on the point of Section 106 of the Railways Act and fulfilling of Section 107 thereof is not tenable and the learned court has erred in interpreting the two circulars as discussed hereinabove.

12. The rates of circular No. 17 of 2005 dated 23.03.2005, clause-5.0 stipulates as under:-

> *"5.0 The classification for 'programmed' Iron Ore traffic for Steel Plant siding shall continue to be charged at Class-140. The 'programme' for such traffic shall be issued by the office of ED(RM), Kolkata. However, the classification for all other traffic in Iron Ore has been revised from Class-140 to Class-160."*

13. On perusal of the aforesaid clause, it is crystal clear that with regard to iron ore, charge was fixed as Class-140 and for other articles the charge was fixed as Class-160 and at serial No. 59 of the said circular, the Trainload Class was also fixed as Class-140.

14. Rates Circular No. 26 of 2005 dated 11.05.2005 is also the part of the Tribunal's record, where in clause-2.1 thereof, it has been stipulated as under:-

> *2.1 Para-5.0 of Railway Board's letter No. TCR/1078/2005/1 dt. 23.03.05 (Rate Circular No. 17 of 2005) may be deleted.*

15. Further Clause-2.4 of the aforementioned Circular further stipulates as under:-

> "*2.4. Note:- *Iron ores other than programmed traffic for Steel Plant Sidings shall be charged at Class-160* appearing below Main Commodity Head "Ores" at S. No. 59 may be deleted. "*

16. In light of above two clauses of circular dated 11.05.2005, it transpires that Clause-5.0 and Serial No. 59 relating to the Iron Ore has been deleted and charge has been fixed at Class-160.

17. Further clause-3.0 of the said circular stipulates as under:-

"3.0 this instruction will come into force with effect from 15.05.2005."

18. In view of the above clause-3.0 of the said circular, the deletion part has been put into effect with effect from 15.05.2005, wherein the dispute is for the period 01.04.2005 to 14.05.2005, i.e. prior to come into the effect of the Rates Circular No. 26 of 2005 dated 11.05.2005 and the CBT programme for raw materials was submitted by the M/s SAIL before the Executive Director on 29.03.2005 which is the part of the Tribunal's record, which clearly suggests that CBT programme was submitted by the M/s SAIL within time, however, that was not approved by the Railway and once it has been filed within time, it was incumbent upon the Railway either to approve or reject the said CBT programme, which has not been done and even assuming that the CBT programme was not approved, however, the circular dated 23.03.2005 was already existing, wherein Clause-5.0 fixed the tariff of iron ore to Class-140, thus for iron ore, the circular was existing and even the CBT programme was not approved, the tariff was required to be charted in terms of circular dated 23.03.2005. There is no doubt that the circular dated 11.05.2005 has been brought later on, as discussed hereinabove, however, that has been made effective with effect from 15.05.2005 by the Railway itself, which clearly suggests that the tariff was required to be charged at Class-140 in light of circular dated 23.03.2005, which has been later on withdrawn by the circular dated 11.05.2005.

19. In view of the above discussions, it transpires that Clause-5.0 of circular dated 23.03.2005 clearly stipulates for programmed iron ore for steel plant sidings the tariff to be charged at Class-140. Admittedly whatever the reason, the CBT programme submitted by the appellant herein has not been approved and it has been pointed out in course of the argument that the said approval is being made by the Board of Directors.

20. Further Section 70 of the Railways Act, stipulates as under:-

> *"70. Prohibition of undue preference.- A railway administration shall not make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or any particular description of traffic in the carriage of goods*.

21. In view of the above Section, it transpires that the provisions are made and Railway will not discriminate or make any preference to a particular person. It has been pointed out in course of the argument by the learned CGC appearing for the respondent-Railway that during that period, due to unavoidable circumstances, many other CBT programme were not approved and in view of that it cannot be said that the appellant's CBT programme was singly not approved.

22. In view of the above facts, reasons and analysis and further considering Clause-5.0 of the circular dated 23.03.2005, the iron ore tariff for steel plant was fixed for Class-140 only where the CBT programme was approved by the Railway, however, in the case in hand, for whatsoever reason, that has not been approved. As such, this appeal lacks merit and the same is hereby, dismissed.

23. Let the Trial Court Records be sent back to the learned court forthwith.

(Sanjay Kumar Dwivedi, J.)

Dated:-24.09.2026

Amitesh/- **[A.F.R.]**