

GAHC010161352011



2026:GAU-AS:2879

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MFA/92/2011

UNION OF INDIA,
REPRESENTED BY THE GENERAL MANAGER, N.F. RAILWAY,
MALIGAON, GUWAHATI-11,
ASSAM.

VERSUS

M/S UNIQUE COAL TRADER
SOHIL NIWAS, 3RD FLOOR, CHHETTRIBARI ROAD,
GUWAHATI-1

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

For the appellant : Mr. B. Sharma, Standing Counsel, Railway

For the respondent : Mr. D. Rathi, Advocate

Date of Hearing : **18.11.2025**

Date of Judgment : **25.02.2026**

JUDGMENT & ORDER

- 1.** Heard Mr. B. Sharma, the learned standing counsel, Railways, appearing for the appellant. Also heard Mr. D. Rathi, the learned counsel for the respondent.
- 2.** This appeal under Section 23 of the Railway Claims Tribunal Act, 1987, has been filed by the appellant, Union of India, impugning the judgment and award dated 27.04.2011 passed by the Railway Claims Tribunal, Guwahati Bench, in O.A. No. 166/2003.
- 3.** The facts relevant for consideration of the instant appeal, in brief, is that the respondent had filed an original application before the Railway Claims Tribunal, Guwahati Bench under Section 16 of the Railway Claims Tribunal Act 1987, *inter alia*, stating that the respondent/claimant had booked a train load of consignment from JPZ to MXX on 03.06.2000 bearing invoice Nos. 185 to 194 as well as Railway Receipt Nos. 740080 to 740089. It was contended by the present respondent before the Railway Claims Tribunal, as applicants that they had booked 967 metric ton of consignment, which is permissible weight for charging of freight at normal traffic rate but the railways had, after reweighing of the goods, found it to be 988.4 metric tons and even then, it was increased to 998.9 metric ton on the allegation of overloading and imposed penal freights on imaginary weight, which according to the applicant, was totally wrong and as such, the applicant claimed refund of excess freight paid by them, which comes to Rs.52,968/-. The railways contested the claim of the applicant by filing the written statement, wherein they took the plea that the Railways have correctly imposed penal freight in exercise of powers under Section 73 of the Railways Act, 1989. The Railways also denied their liability to make refund of overcharges

of Rs.52,968/- and had prayed for dismissal of the original application.

4. On the basis of the pleadings of the parties, following issues were framed by the Railway Claims Tribunal, Guwahati Branch:-

“(i) Whether notice under Section 106 of the Railways Act, 1989 was served by the applicant to the respondent?

(ii) Whether the applicant holds legal title for the claim as applied?

(iii) Whether the respondent is justified in realizing the penal freight on account of overloading and prove that there was overloading?

(iv) Whether the applicant proves that they have not overloaded and they have been wrongly levied penal freight?

(v) Relief & Order?”

5. During the enquiry before the Tribunal, the respondent (claimant) produced the copies of Railways receipts and other documents whereas the Railway Authority produced copies of circular dated 14.03.1996 as well as Weigh Bridge certificate and date wise condition of weighbridge. However, by the impugned judgment and order, the Railways Claims Tribunal, Guwahati Bench allowed the original application filed by the present respondent and directed the Railways to refund an amount of Rs.52,968/- along with an interest at the rate of 6% per annum from the date of filing of the original application till the realization within three months from the date of impugned judgment. It was also directed if the Railways failed to refund the aforesaid amount within three months it shall carry an interest @ 12% per annum till the realization. The present appellant was also directed to refund the application fees of Rs.2,510/- and legal practitioners' fee of Rs.1,500/- to the claimant. Being aggrieved with the aforesaid judgment and order, the present appellant has preferred the

instant appeal.

6. Mr. B. Sharma, the learned standing counsel, Railways, has submitted that the Railway Claims Tribunal had erred in allowing the claim petition filed by the respondent by ignoring the fact that the railway authorities were well within their rights under Section 73 of the Railways Act, 1989 to impose punitive charges as the railway wagons in which the consignment booked by the respondent was carried was found to be overloaded beyond permissible carrying capacity of the said wagons. He submits that the consignment booked by the claimants was carried in BCNA/BCN Wagons and the punitive charges were levied on the overweight portion of the individual wagon. He submits that the consignor mentioned the weight of the consignment loaded in the individual wagons as "as per weighment chart instead of accurate weight which was loaded in the individual wagons".

7. The learned counsel for the appellant submits that punitive charges were levied as per Punitive Charge for Overloading of Wagons Rule, 1995 wherein it is provided that "when loaded in loose condition- where the weight of goods exceeds, the permissible carrying capacity by (a) more than two ton and if such overloading is detected in the forwarding station, such overweight of two tons shall be chargeable at 300 x rate. He submits that the minimum prescribed weight for BCNA wagon is 58.8 tons and for BCN wagon is 58 tons. He further submits that the rules further provides that if the load in a wagon exceeds upto two tons, then, normal freight is to be charged, however, when it exceeds permissible weight plus two tons, the overweight portion is chargeable at the rate of 300 x. He submits that in the instant case the punitive charges were imposed according to aforesaid arrangement as provided under relevant Rules. He further submits that the weighbridge at Jogighopa station were not having

any defect when the consignment was weighed and to that effect the appellant has also produced machine fitness certificate before the Railways Claims Tribunal.

8. On the other hand, Mr. D. Rathi, learned counsel for the respondent has submitted that the Tribunal has correctly passed the direction of refund of the excess punitive freight imposed on the respondent by the Railways. He submits that out of sixteen wagons in which the consignment was loaded, nine were BCNA wagon and seven were BCN type wagons. He submits that the said wagons were loaded less than 967 metric tons which is less than the permissible weight for charging punitive freights. He submits that when the railway reweighed the goods no weighment chart was provided to the respondent and the punitive charges were arbitrarily imposed.

9. He further submits that if any overloading by the respondent was found by the railways at the forwarding station, the railways should have unloaded the excess weight and recovered such cost of unloading and other charges for detention of any wagon for that purpose. He submits that had there been any unloading beyond the permissible capacity, the railway administration ought not to have permitted carrying such wagons with excess load beyond permissible capacity, more so, when such excess load was detected at the forwarding station. In support of his submission, the learned counsel for the respondent has cited following rulings:-

(i) "***Union of India Vs. M/s Fuel Sources India Private Limited***" reported in (MFA No. 31/2012)

(ii) "***Union of India Vs. M/s unique Coal Traders***" reported in (MFA No. 32/2013)

10. I have considered the submissions made by the learned counsel for

both sides and have gone through the rulings cited by the learned counsel for the respondent.

11. This is a very old pending appeal of the year 2011. On perusal of the materials on record, it appears that the respondent has claimed to have loaded less than 967 metric tons of goods in the railway wagons, however, the railways during reweighing of the goods found the weight of goods to be 988.4 metric tons and collected freights, including the penal freight, on 998.9 metric tons. However, no weighment chart of the reweighing of the consignment booked by the appellant has been produced by the railways before the Railways Claims Tribunal. The Railways have also failed to produce any coal loading register which it supposed to maintain. Since, no document like re-weighment chart showing the excess weight of the consignment has been produced by railway authorities before the Tribunal, they were unable to counter the contentions of respondent before the Tribunal regarding unauthorized levying of punitive charges. Hence, the Tribunal was correct in directing refund of punitive charges imposed by the railways in addition to normal freight to the claimant/respondent.

12. For the reasons discussed in foregoing paragraphs, this Court does not find any merit in the instant appeal.

13. Accordingly, this appeal is dismissed.

14. Send back the records of the original application along with a copy of this judgment to the Railway Claims Tribunal.

Comparing Assistant

Abhishek
Prem

Digitally signed by
Abhishek Prem
Date: 2026.02.27
10:44:28 +05'30'

JUDGE