

Heard Mr. G.N. Sahewalla, the learned Senior Counsel appearing for the petitioners. The Standing Counsel, Railways Mr. A. Barkataki appears for the respondents.

2. The petitioners are wholesale rice dealers and they loaded rice in a railway rake at Belha Station for transportation to Guwahati. En route, the loaded wagons were re-weighed at Santhalidil Station weighbridge and overloading of wagons was detected in the weighment. But since rice bags with uniform weight of 50 kg. were only loaded, the petitioners suspected that defective weighbridge has led to the overloading result. Accordingly they applied for re-weighment of the loaded wagons at destination. But this prayer for re-weighment was rejected on 3.11.2006 by the Chief Commercial Manager of the N.F. Railways.

3. The aggrieved writ petitioners filed separate writ petitions and interim order was passed thereon on 10.11.2006, whereby subject to payment of re-weighment and carriage charges and execution of Bond by the petitioners, the Court directed fresh weighment of the loaded wagons. Thereafter the petitioners deposited the weighment dues and 50% of the carriage charge and thereafter re-weighment was carried out on 14.11.2006 at the New Bongaigaon weighbridge. The exercise revealed that the loaded rice was within the permissible limit of the railway wagons and there was no excess weight. The Annexure-C re-weighment chart issued by the railway authorities at New Bongaigaon station confirms that there was no overloading in the wagons booked by the petitioners.

4. Referring to the Court's interim order of 10.11.2006, Mr. Sahewalla submits that the payment of the carriage charge by the petitioners was made subject to the outcome of the writ petition. Therefore, since the re-weighment has confirmed that the loaded rice was within the permissible capacity of the wagons, the recovered 50% of the carriage charge i.e. Rs.1,26,700/- should be refunded by the railway authorities.

5. The Standing Counsel, Railways Mr. A. Barkataki however allege overloading in 2 of the 36 loaded wagons in the weighment chart and submits that some overloading was detected through the re-weighment at New Bongaigaon. However it is seen that in respect of the Sl. Nos.15 and 21, 'zero' weight of the wagons were taken into account and that is how excess net weight was reflected against these 2 wagons. This obviously was an error and on this basis, the submission of excess weight in respect of 2 wagons made by the railway counsel can't be accepted.

6. As the stand of the petitioners have been vindicated through re-weighment and overloading could not be detected, I am of the view that this cases should now be closed with direction to the railways to refund 50% of the carriage charge amounting to Rs.1,26,700/-. It is ordered accordingly. The individual Bonds furnished by the petitioners may be returned.

7. The cases are disposed of with the above direction without any order on cost.