रेल दावा न्यायाधिकरण
जयपुर न्यायपीठ
RAILWAY CLAIMS TRIBUNAL
JAIPUR BENCH

सत्यमेव जयते

Claim Application No. OA-III-JP/04/2019

CORAM: Mr. Rajeev Jain, Hon'ble Member (Judicial).
Mr. G.S.Hira, Hon'ble Member (Technical).

Seal of the Railway Claims Tribunal JAIPUR

Date of registration:	**03.09.2019**
Date of arguments:	**24.04.2026**
Date of judgment:	**28.04.2026**

M/s. Khem Chand Praveen Kumar, 83, New Dhan Mandi, Sribijaynagar, District Shriganganagar, trough Proprietor Shyam Lal.

.....Applicant

Versus

Union of India through the General Manager, North Western Railway, Jaipur (Rajasthan).

.....Respondent

Claim for Rs.3,85,406/-/- along with interest

PRESENT
Mr. Rajesh Panda, learned counsel for the applicant.
Mr. Arvind Kumar Pareek, learned counsel for the respondent.

JUDGMENT

Per Rajeev Jain, Member (J.),

1. This case has been filed before this Tribunal by M/s. Khem Chand Praveen Kumar through its proprietor Shri Shyam Lal under Section

16 of the Railway Claims Tribunal Act, 1987 seeking refund of fare of Rs.3,85,406/- along with interest and costs claimed to have refused to pay by the respondent Railway Administration.

2. In brief, it has been averred in the claim application that 12 BCNA wagons of Wheat were booked by the applicant vide RR No.21000197 dated 3/5.8.2016 to be transported from Srivijay Nagar to Kudal Nagar. This consignment was clubbed with RR No. 212000198 from Srivijay Nagar to Kudal Nagar dated 3/5.8.2016 (14 wagons), RR No.212000075-76 both dated 3/5.8.2016 (8 + 8 wagons – Anupgarh to Kudal Nagar). The applicant remitted Rs.26,70,102/- as against the freight charges (for RR No.212000197 dated 3/5.8.2016) as demanded by the Railway at the time of booking as the RRs were issued as Paid RRs. The true copies of the RRs are filed herewith and are marked as Annexure-1. It has further been averred in the claim application that the applicant submitted an application dated 1.8.2016 before the Station master for Train Rack Load for 2 Point i.e. Shrivijay Nagar (26) wagons) and from Anupgarh (16 Wagons) in total 42 wagons (BCN). The applicant has also deposited the requisite charges/fees for 2 Point Rake Load vide Challan No.699669 and 699706 for Rs.40,755/- and Rs.25,080 respectively This application with Challan was accepted by Railways and we allowed two point rake. The true copies of the application and Challan are filed herewith and are annexed as Annexure-2 to 4. It has also been pleaded on behalf of the applicants that despite above, the Railways have illegal charged Wagon Load Charges from the applicant after loading of the consignment. It is submitted that once the applicant has been allowed Train Rake Load for 2 P:oint and he has also deposited the requisite charges/fees 2 Point Rake load which was accepted by the Railways the Wagon Load charges cannot be

levied and the same has been illegally charged. It is submitted that Railways has wrongly charged the freight on class 150 W/L whereas it should have been class 130 T/L. Further, the distance calculated from Srivijay Nagar to Kudal Nagar by Railways has wrongly been calculated. Thus, the freight has been charged illegally and the applicant is entitled for the refund of the freight for the excess distance charged by the Railways. The calculation Sheet is field herewith and is marked as Annexure-5. It has also been stated by the applicant that the Notice under Section 106 of the Railways Act was sent to the Railway on line Registration No.7111600002 dated 23.1.2016 and the Notice has also sent by the Speed Post on 24.1.2017 which was received by them on 25.1.2016. However, the Railway did not honour the justified claim of the applicant and thus, the applicant has been left no remedy other than to file the present OA for seeking redressal of its grievance. The Notice dated 24.1.2017 sheet is filed herewith and is marked as Annexure-6. Hence, the North Western Railway being the destination railway is liable to refund the excess amount collected by the destination station under Section 108 of the Indian Railways Act. The application is within 3 years from the date of on which the freight charges were collected by the railway. In the end, it has been pleaded on behalf of the applicant that order may be passed for refund of Rs.3,85,406/- along with interest @ 18% per annum and costs.

3. To substantiate his claim, the applicant has filed the copy of Railway Receipt, letter dated 1.8.2016, Wagon Registration Fee 2 Point Rake, Calculation Sheet and Notice dated 24.1.2017.

4. On receipt of the notice, the respondent Railway Administration appeared before the Tribunal and filed its written statement

pleading therein that the value of claim as mentioned in the claim application is not accepted and denied. The freight collected at the booking station for transportation the consignment has been charged correctly as prescribed under railway rules and guidelines. No claim is due to the applicant requiring refund of freight as at the time on the date of booking i.e. 3/5.8.2016 the facility for booking of two points loading was not available. However, the said facility was made available with effect from 30.8.2016 vide goods rate circular N0.17/2016 dated 30.8.2016. The subject consignment was booked on 3.8.2016 that is more than 25 days earlier. The applicability of facility of the said circular was with prospective effect and will have no retrospective effect. It has further been pleaded on behalf of the respondent Railway Administration that the booking parties are not disputed being factual. However, remaining part of the same are not accepted and denied. No refund of freight is due to the applicant as mentioned in the para. Further, the Para-5 is accepted to the extent of booking particulars and rest part if any, are not accepted and denied. It is denied that any refund is due to applicant. The freight was collected while booking the consignment as per the prevailing policy and rules applicable to the subject consignment on wagon load basis. Further, the service of claim notice is also accepted. However, the same was replied to the applicant repudiating the claim being admissible under the extant policy guidelines and rules applicable for such consignments. The booking particulars ex. Anupgarh and Sri Vijaynagar to Kudal Nagar is accepted. However, it is denied that respondent booked the consignment under the policy of booking two points rake loading. In fact there was not such policy at the relevant time for accepting two points rake loading. The consignment was accepted and booked under the policy of wagon load and accordingly the freight was collected correctly. In case the respondents had agree to for booking of two points rake in that case authority so issued must be produced for the appreciation of the Hon'ble Tribunal. In fact there was no such at the relevant time. However, later on the facility was extended for loading of two points rake which cannot be made applicable to the consignment booked more than 25 days earlier. Railway Board vide letter No.TCR/1017/2016/01 dated 14.7.2016 (Rate Master Circular No.2016 dated 14.7.2016) formulated policy transported products bock rake, mini rake (covered wagons) two points rake (covered wagons) etc. and empowered Zonal Railways for notification of combination of station for two points rake. Zonal Railways abiding to these guidelines notified two points originating terminals for covered wagons vide Through Rate Circular No.17/2016 (Authority COM/NWR Note No.T-2/2016/4 Vol. VI/214dated 30.8.2016). In which Suratgarh – Anupgarh were notified at Sl. NO.12 (Ext.R-1). The said consignment was booked on 3/5.8.2016 and the policy came in to force from 30.8.2016., it cannot be made available from retrospective date in absence of any permission for loading of two points rake, charging wagon load rate is correct and accordingly the claim notice was correctly replied repudiating the claim. It is clarified that NW Railway is originating railway in the subject matter and not a destination railway as contended in the para which pleas be noted. The distance has been calculated through the rationalized route correctly applicable and prevailing for the consignments booked ex. NW Railway to Southern Railway at the relevant time. Further, the applicant does not deserve to get any relief for refund of freight and interest thereon with advocate fee etc. as no refund is applicable in the present case in absence of any circular authorizing applicable for loading two points rake. In absence of any specific authority for the relevant period authorizing applicant to load two points rake, no relief is applicable to the applicant and the application needs to be dismissed with heavy cost to discourage in filing such applications. It has also been pleaded on behalf of the respondent Railway Administration that the ground mentioned by the applicant are not applicable to him as the Railway Administration has already taken necessary action for following the existing rules and policy in charging freight. There were no such instructions for permitting two point rakes when the consignment was tendered by the applicant for carriage and accordingly wagon load rate has been charged for calculation of freight. The applicant is not eligible for getting the benefit of two points loading rake in the present case. The respondents reserve its right to add or modify the reply in case any new facts are brought on record in future. Hence, the claim application filed by the applicant is liable to be dismissed.

5. Based on the pleading of the parties and material made available on following issues were formulated by the Tribunal vide order dated 13.12.2019:-

1. Whether the Southern Railway is also a necessary party in the present case?
2. Whether the applicant Company is entitled for two points rake benefit under the prevailing Railway Board Policy?
3. Whether the railway administration has realized excess amount towards freight from the applicant Company?
4. Whether the applicant is entitled for getting refund of the same? If so, to what extent?
5. Any other relief?

6. So as to lead evidence, the proprietor of the applicant firm has filed his own examination-in-chief on affidavit. The relevant documents were got exhibited by him as A/1 to A/6.

7. The respondent Railway Administration in its evidence, has filed examination-in-chief on affidavit of Shri Chouth Mal Saini, Chief Rate Inspector. He was cross-examined by learned counsel for the applicant on 6.10.2023.

FINDINGS

8. We have carefully gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of both the sides. Our findings on the aforesaid issues are as follows:-

Issue 1 -

9. In the instant case, the applicant has booked the consignments in question from Shri Vijaynagar to Kudal Nagar and from Anupgarh to Kudal Nagar and for transportation of the same, remitted a sum of Rs.26,70,102/- as freight charges. The booking particulars of the said consignments and making of the payment towards freight charges by the applicant, have not been disputed by the respondent Railway Administration. The case was filed by the applicant as a consignor whose name was reflected in the Railway Receipt. Thus, it is held that the applicant has right to sue. Hence, this issue is decided accordingly.

Issue No.2 & 3 -

10. Both these issues are being dealt and decided together.

11. It is the case of the applicant that he booked 12 BCNA wagons of Wheat from Shri Vijaynagar to Kudal Nagar vide RR No.212000197

dated 3/5.8.2016. The said consignment was clubbed with consignments of Wheat booked from Shri Vijay Nagar to Kudal Nagar booked vide RR No.212000198 and Anupgarh to Kudal Nagar vide RR N.212000075-76. For carriage of the said consignments the applicant has deposited a sum of Rs.26,70,102/- as freight charges. It has further been pleaded on behalf of the applicant that he has requested vide application on 1.8.2016 for clubbing of all the wagons for two Point Rake Load facility and deposited a sum of Rs.40,755/- and Rs.25,080/- vide Challan No.699669 and 699706 for the same. It has been pleaded on behalf of the applicant the respondent admitted the two point rake load but despite that it has charged wagon load charges which is impermissible. Further, the applicant has pleaded that as per Railway Board's letter No.TCR/1017/2015/01 dated 05.6.2015 the Shri Vijaynagar and Kudal Nagar were declared two point rake load combination and, therefore, two point rake load was applicable on the same. Despite that, the respondent Railway Administration charged wagon load charge which is not as per law. Behind the same, it was the logic of the respondent Railway Administration that no facility of two point rake load was available at the relevant time and the same has come into force from 30.8.2016 only vide Circular No.17/2016 dated 30.8.2016 and the applicant had booked the consignments on 03/5.8.2016 i.e. after a period of 25 days. Hence, the respondent Railway Administration has realized correct freight charges. Besides, vide letter dated TCR/1017/2015/01 dated 5.6.2015 Anupgarh and Kudal Nagar were declared as two point rake combination by the respondent Railway Administration and it was applicable at the time of booking of the consignments by the applicant. Hence, it is not fair that two point rake load became applicable only from 30.8.2016. The respondent Railway Administration has nowhere stated that the letter

No.TCR/1017/2015/01 dated 5.6.2015 had become infructuous or was withdrawn. Hence, the letter dated 5.6.2015 was applicable at the time of booking of the consignment. It has further been pleaded behalf of the applicant that the general classification of the goods is available at Page-19 and according to which the Wheat was to be charged under class 130 as per train load class whereas the respondent has charged the Wheat under class 150 and, therefore, the respondent railway administration is liable to refund excess freight charged by the applicant.

12. It has also been pleaded on behalf of the applicant that the respondent Railway Administration has charged the freight from Shri Vijaynagar to Kudal Nagar for a distance of 3013 Kms. whereas as per the cheapest route the distance comes to 2993 Kms. which has been admitted by the respondent railway administration. The respondent railway administration has realized the freight for carriage of the consignment through rationalized route (rationalized scheme general order No.01/2014 effective from 5.9.2014) while the respondent has nowhere mentioned on the Railway Receipt or forwarding note that the consignment shall be carried by rationalized route. It has further been pleaded on behalf of the applicant that as per Rule 125 (b) of the Goods Tariff if there is no remark is made on the Railway Receipt, the consignment shall be carried by the cheapest route. As per the forwarding note the freight should have been charged via. Palanpur for a distance of 2993 Kms. Hence, the respondent has wrongly charged the freight to the tune of Rs.3,85,406/- which the applicant is entitled to refund along with the interest.

13. In the evidence, Shri Shyam Lal has deposed the same fact by way of their affidavit of evidence.

14. The respondent Railway Administration in rebuttal has filed the affidavits of evidence of Shri Chouth Mal Saini, Chief Rate Inspector and Shri Mahesh Chand Jewelia, Presenting Officer and it has been deposed by them that the applicant booked the consignment on 3/5.8.2016. The applicant has booked the consignment in question from Shri Vijaynagar to Kudal Nagar vide Railway Receipt No.212000197 dated 3.8.2016 and as per Circular No.17/2016 the facility of booking of consignment was available for two stations. Further, the Circular No.17/2016 dated 30.8.2016 was not applicable from retrospective effect. Hence, no train load was given to the applicant. The calculation of distance was to be done as per Order No.1/2014 and accordingly the rationalization scheme shall be applicable if traffic towards the South Western Railway. Meaning thereby the cheapest route shall be calculated via. BYPL – OML vice versa. Hence, the freight charged by the respondent railway administration was in accordance with the orders and circulars and, therefore, no refund is due to the applicant. During cross-examination nothing contradictory has come out.

15. That the consignment was booked by the applicant on 3/5.8.2016 and the two point rake load facility became effective vide circular No.17/2016 dated 30.8.2016. This circular has no retrospective effect and, therefore, was not applicable in the instant case. The circular No.TCR/1017/2015/01 dated 5.6.2015 was also not applicable because the combination of the loading station of Anupgarh and Shri Vijaynagar was not provided as "rakes from two originating terminals". Under such circumstances, the applicant is not entitled for two point rake load facility, therefore, no freight can be refunded on this count.

16. The contention of the applicant is that the class 130 pertains to train load but the respondent railway administration charged the freight as per class 150 which pertains to wagon load which is not justified. In this respect the contention of the respondent railway administration seems to appropriate that the class was wrongly mentioned by the concerned clerk but the freight was rightly collected for wagon load. The charges paid by the applicant Rs.40,755/- and Rs.25,080/- for the purpose of registration of wagons which cannot termed the charges for permitting rakes from two point originating terminals.

17. The second contention of the applicant is that the distance of Shri Vijaynagar to Kudal Nagar as per rationalization scheme is 3013 Kms. Which was charged by the railway administration is not proper because the shorter distance is 2993 Kms. and as per IRCA Goods Tariff No.41 Part-I Vol. I Rule 125 (1) (b) states that's goods consigned will be dispatched by the shorter route at the charges of cheapest route. The applicant has not mentioned the rationalization route on the forwarding note and in such instance, the railway administration cannot charge the freight as per rationalization scheme. The applicant has selected the route with a distance of 2993 Kms.

18. The contention of the respondent in this respect is that no excess freight was collected from the applicant. The distance has been calculated by the rationalized route correctly available for the consignment booked ex. North Western Railway to South Western Railway. The rationalization route is BYPL – TPT or vice versa which comes 3018 Kms. and the applicant has paid the freight for the same and therefore no excess freight has been realized by the respondent railway administration.

19. The rationalization scheme brought by the Railway Board is as under:-

In exercise of the powers conferred under Section 71 of the Railways Act, 1989 (24 of 1989 read with of the Notification of the Government of India in the Ministry of Railways No. GSR 53 E dated 23.1.1995, the Railway Board hereby directs that all the Railway Administration shall carry, unless it is necessary to divert such wagons for operational convenience after the consignments are booked, any goods or class of goods by such route or route specified in this order.

The scheme came into force from 5.9.2014 and unless cancelled earlier, remains in force up to 31.8.2015. The validity of the rationalization scheme extended up to 30 June, 2017 unless modified/cancelled earlier vide Railway Board Circular No.2015/TT-III/S/27/2 dated 27.12.2016.

20. The relevant provisions of the IRCA Goods Tariff No.41 General Rules are as under:-

"125. Routing of goods traffic.- (1) (a) The term "shortest route" wherever appearing in this rule, is the shortest route between the forwarding and receiving stations as determined upon the basis of the distance notified by Railways as being the distance for charge. For purposes of determining the shortest route in case in which break-of-gauge transshipment is involved, each break-of gauge transshipment is to be reckoned, as equivalent to 200 kilometers.

(b) In the absence of specific instructions in writing from the sender or his authorized agent to the contrary, goods will be dispatched by the shortest route at the charges by the cheapest route, i.e. the route by which the freight charges are at the lowest.

(c) When a consignment is required to be dispatched by the cheapest route, although such route is not the shortest route, the sender or his authorized agent must given written and signed instructions on the Forwarding Note as under –

" To be forwarded via ....at my requst5."

The Railway Receipt and its counterfoils must also be endorsed by staff of the forwarding station as under:-

"Booked route selected by sender."

(d) When a consignment is required to be charged and forward by other than the shortest route or the cheapest route the sender or his authorized agent must give written and signed instructions on the Forwarding Note as under:-

"To be forwarded via...............a dearer route" and the Railway Receipt and its counterfoils must be endorsed by the booking station staff as under:-

"Dearer route selected by sender."

(e) In the event of the shortest route, when also the cheapest being partially or wholly closed for traffic, the correct route for carriage of traffic shall be next shortest open route at the charges by the next cheapest open route. In such a case, the sender or his authorized agent should give written and signed instructions on the Forwarding Note as under:-

"To be charged by the next cheapest open route, the cheapest route via............................being closed."

The Railway Receipt and its counterfoils must be endorsed by the booking station staff as under:-

"Charged by next cheapest open route, at senders request, the cheapest route via..................being closed and booked via......................"

(f) In the event of the shortest route when not the cheapest being partially or wholly closed for traffic, the goods may be dispatched by the next shortest open route at the charges by the cheapest route. In such cases the Railway Receipt and its counterfoils must be endorsed by the staff of the forwarding stations as under:-

"Booked via.....................the correct route being partially closed/closed."

(g) In the event of charges being equal or two by more open routes, the sender or his authorized agent may elect to have his goods charged and dispatched by any open route and, where the route so selected is not the shortest route, the sender or his authorized agent must give written and signed instructions on the Forwarding Note as under:-

"To be forwarded via.....................at my request."

The Railway Receipt and its counterfoils must be endorsed by the staff of the forwarding station as under:-

"Booked route selected by sender."

(h) Notwithstanding anything contained in Rule 125(1) (b), on the Central Government issuing an order under section 71 (1) (b) of the Railways Act, 1989 that goods specified in the order can be carried and charged by a route specified therein or by any of two alternative routes specified therein, the goods will be chargeable by the specified route or any of the specified alternative routes over which such goods are actually carried, even if it is next the cheapest route.

(2) Where a sender has endorsed a Forwarding Note to the effect that goods should be dispatched by a dearer route and the goods are carried by that route, the consignment will be charged at the rate applicable by that route, even though an endorsement to the effect that the dearer route was selected by the sender does not appear on the invoice or his defective.

(3) When there are separate goods booking stations at the same railway centre or separate goods sheds belonging to the same Railway or different railways at the same stations, the correct route shall be determined from amongst such routes only as are open from the particular station or goods shed at which goods have been tendered for dispatch.

(4) Regarding booking of explosive by dearer route, see relevant rules in the IRCA Red Tariff in force.

(5) For the purpose of rating and routing, a transshipment point should be treated as closed if no arrangements exist there for transshipment of liquids in bulk vide Rule 180."

21. As per Rule 125 (1) (b) in the absence of the specific instructions in writing from the sender or his authorized agent to the contrary, goods will be dispatched by the shortest route at the charges by the cheapest route. We perused the forwarding note available in the record and found that at the bottom at Sl. No.9 it is mentioned in the printed form to be forwarded via. ....(a dearer route) at my request which was not struck out by the applicant, means no route was opted by the applicant. As per Section 65 of the Railways Act, 1989, it is necessary to execute the forwarding note by the consignor who entrusted the goods to the railway administration for carriage and the consignor shall be responsible for the correctness of the particulars furnished by him in the forwarding note.

22. As per the provision of the Rule 125 (1) (h) Notwithstanding anything contained in Rule 125(1) (b), on the Central Government issuing an order under section 71 (1) (b) of the Railways Act, 1989 that goods specified in the order can be carried and charged by a route specified therein or by any of two alternative routes specified therein, the goods will be chargeable by the specified route or any of the specified alternative routes over which such goods are actually carried, even if it is next the cheapest route. The said rule is self-explanatory that inspite of the provision of carrying goods through shorter/cheapest route in Rule 125 (1) (b) the rationalization scheme brought under Section 71 (1) (b) of the Railways Act, 1989 will be applicable.

23. The rationalization scheme has been brought about in exercise of the powers conferred under Section 71 (1) of the Railways Act, 1989 while IRCA Goods Tariff No.41 or the rules framed for the carriage of the goods are administrative in nature. Therefore, rationalization scheme has the overriding effect over the IRCA Goods Tariff No.41.

24. Learned counsel for the applicant has relied upon the decision of Hon'ble High Court of Orissa (AIR 1997 Orissa 77) Union of India v. Steel Authority of India and Hon'ble High Court of Madras CMA No.29 to 33 of 1999 Union of India v. Southern Petrochemicals Industries Corporation Limited decided on 16.10.2006. Both the above cases are different from the facts and the relevant provisions of IRCA 125 (1) (h) was not brought into the notice of the Hon'ble High Court.

25. In view of the above, the respondent railway administration has rightly charged the freight as per rationalization scheme. Therefore, respondent railway administration has not realized any excess freight from the applicant.

26. Therefore, issues No. 23 are decided against the applicant and in favour of the respondent railway administration.

Issue No.4 & 5 -

27. Both these issues are taken up and decided together.

28. In view of our findings on issues No. 2 & 3 above, the applicant is not entitled for any relief whatsoever from the respondent railway administration.

ORDER

29. The claim application of the applicant is hereby dismissed. No order as to costs.

30. Judgment signed, sealed and pronounced in open court today i.e. 28.4.2026.

(G.S.Hira)
Member (Technical)
RCT/Jaipur

(Rajeev Jain)
Member (Judicial)
RCT/Jaipur