

(1974) 02 MAD CK 0007

Madras High Court

Case No: Writ Appeal No. 49 of 1971

The Union of India (UOI)

APPELLANT

Vs

The Railway Rates Tribunal and
Another

RESPONDENT

Date of Decision: Feb. 21, 1974

Acts Referred:

- Railways Act, 1890 - Section 41(3)

Citation: (1975) ILR (Mad) 21 : (1975) 88 LW 204 : (1975) 1 MLJ 96

Hon'ble Judges: K. Veeraswami, C.J; Vardarajan, J

Bench: Division Bench

Advocate: P.S. Srisailam, for the Appellant; S. Ramasubrahmanyam for King and Partridge, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

K. Veeraswami, C.J.

This appeal involves interpretation of the scope of jurisdiction of the Railway Rates Tribunal u/s 41(3) of the Indian

Railways Act, 1890. A complaint was filed before the Tribunal on 21st May, 1965, which was disposed of by it on 20th July, 1968, revising the

maintenance charges in respect of siding from the date of the complaint, and the siding charges were fixed at Rs. 38 with effect from the same date

and Rs. 42 from 10th April, 1967, on a certain view of increase in the railway rates. The appeal has been filed before us on the strength of Upper

Doab Sugar Mills Ltd. Vs. Shahdara (Delhi) Saharanpur Light Railway Company Ltd., , as was the case in the writ petition.

2. Section 41 (1) says that any complaint that a railway administration is levying a charge which is unreasonable., may be -made to the Tribunal.

The Tribunal shall hear and decide any such complaint in accordance with the provisions contained in Chapter V of the Act. Sub-section (3) of that section is:

In the case of a complaint under Clause (b) or Clause (c) of Sub-section (1), the Tribunal may fix such rate or charge as it considers reasonable.

3. We are not concerned with the proviso. The contention is that the Tribunal's power under this provision is only to fix a rate which will have

future operation and, that being the case, the rate allowed by the Tribunal with effect from the date anterior to the date of the decision would be in

excess of its jurisdiction. We are unable to agree with this contention. The words ""the Tribunal may fix such rate or charge "" are designed to vest

jurisdiction in the Tribunal to fix the rate or charge. These words are not to be read as clamping any limitation upon the jurisdiction to fix a rate or

charge with anterior effect. Once the Us starts by a complaint, the Tribunal is in seizin of jurisdiction to deal with it and, in disposing it of, the same

jurisdiction is exercised which enables it to receive the Us for decision. That being so, in any case its jurisdiction will extend to fix the rate or charge

from the date of filing of the Us or complaint. This view is in conformity also with the earlier decisions of this Court in Southern Railways and

Another Vs. The Railway Rates Tribunal and Others, and Hindustan Materials Vs. Railway Rates Tribunal and Others, .

4. The question which the Supreme Court had to decide in U.D.S. Mills v. S.S.L. Railway was whether, when charges had been paid by a party

to the railways, the Tribunal had jurisdiction to order refund. The Court held that, having regard to the language of Section 41 (1), which is the

yardstick to determine the width of the jurisdiction of the Tribunal u/s 39, the Tribunal had no power to direct refund : That view is understandable,

because nowhere. in Section 41 has the jurisdiction been vested in the Tribunal to make such a direction to refund. That being so, the decision

relied on by the appellant does not support the contention that the Tribunal has no power u/s 43 (1) to fix the rate or charge with effect from the

date of filing of the complaint.

5. The appeal is dismissed with costs. Counsel's fee Rs. 100.