

*Rep. by Act 35 of 1950.*

## Act No. LXV of 1948

[PASSED BY THE DOMINION LEGISLATURE]

(Received the assent of the Governor General on the 23rd September 1948)

An Act further to amend the Indian Railways Act, 1890.

**W**HEREAS it is expedient further to amend the Indian Railways Act, 1890 (IX of 1890), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Indian Railways (Second Amendment) Act, 1948.

(2) It shall come into force on such date as the Central Government may by notification in the official Gazette, appoint.

2. **Amendment of Chapter V, Act IX of 1890.**—(1) In Chapter V of the Indian Railways Act, 1890 (hereinafter referred to as the said Act), section 40 shall be omitted, and sections 41, 42, 42A, 42B, 43, 44, 45 and 46A shall be renumbered respectively as sections 26, 27, 28, 29, 30, 31, 32 and 33.

(2) In sub-section (3) of section 27, as so renumbered, for the figures and letter "42A" the figures "28" shall be substituted.

(3) In section 28 as so renumbered, sub-section (2) and the figure and brackets "(1)" in sub-section (1) shall be omitted.

3. **Insertion of new heading and new sections 34 to 46C in Act IX of 1890.**—After section 33, as renumbered by section 2, the following heading and sections shall be inserted, namely:—

### "RAILWAY RATES TRIBUNAL

34. **Constitution of the Tribunal.**—(1) There shall be a Tribunal, called the Railway Rates Tribunal, for the purpose of discharging the functions hereinafter specified in this Chapter.

(2) The Tribunal shall consist of a President, and two other members, appointed by the Central Government; and they shall hold office for such periods and on such terms and conditions as the Central Government may, by general order, prescribe.

(3) A person shall not be qualified for appointment as a member of the Tribunal unless he is or has been, or is qualified for appointment as, a Judge of a High Court.

35. **Constitution of panels of assessors.**—(1) The Central Government shall constitute two panels of assessors namely, (a) the trade, industry and agriculture panel; and (b) the railway panel.

(2) The trade, industry and agriculture panel shall consist of not more than sixty persons chosen by the Central Government; one-third of the number chosen shall represent trade, one-third industry, and one-third agriculture, the representatives in each group being chosen after consulting such associations representing trade, industry or agriculture (as the case may be), as the Central Government may consider necessary.

(3) The railway panel shall consist of not more than thirty persons with railway experience, chosen by the Central Government.

(4) Any appointment to either panel shall be notified in the official Gazette; and the notification shall specify the term for which the appointment is made. The term shall not exceed two years, but the member shall be eligible for re-appointment after the expiry of his term.

*Price anna 1 or 1½d.*

36. *Staff.*—The Tribunal may, with the sanction of the Central Government, appoint such staff, and on such terms and conditions, as the Central Government may determine.

37. *Headquarters.*—The headquarters of the Tribunal shall be at such place as the Central Government may fix.

38. *Sittings of the Tribunal.*—The Tribunal may sit at such place or places as it may find convenient for the transaction of business.

39. *Jurisdiction.*—For the purpose of exercising the jurisdiction conferred on it by this Chapter, the Tribunal may pass such interim and final orders as the circumstances may require, including orders for the payment, subject to the provisions of this Chapter, of costs; and it shall be the duty of the Central Government, the Provincial Government or the Government of an Acceding State. (as the case may be) on whom any obligation is imposed by any such order, to carry it out.

40. *Powers of the Tribunal.*—The Tribunal shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses and shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898), and any reference to the presiding officer of a Court shall be deemed to include a reference to the President of the Tribunal.

41. *Complaints against a railway administration.*—(1) Any complaint against a railway administration, or jointly against two or more railway administrations, that such administration or administrations—

(a) is or are contravening the provisions of section 28; or

(b) is or are charging—

(i) unreasonable rates, or

(ii) rates which are unreasonable by reason of any condition attached to them regarding minimum weight, packing, assumption of risk or any other matter; or

(c) is or are levying unreasonable charges excluding terminal charges which are, or may hereafter be, standardised; or

(d) is or are unreasonably refusing to quote a new station to station rate; or

(e) has or have unreasonably placed a commodity in a higher class shall be heard and decided by the Tribunal in accordance with the provisions of this Chapter.

(2) In the case of a complaint under clause (d) of sub-section (1), the Tribunal may fix a new station to station rate.

42. *Power to alter rates or reclassify commodities.*—(1) The Tribunal alone shall have power to reclassify any commodity in a higher class, but such power shall not be exercised except on the application of the Central Government.

(2) The Central Government alone shall have power—

(a) to increase or reduce the level of class rates, schedule rates and terminal and other charges

(b) to classify any commodity which has not been classified before.

(3) The Tribunal as well as the Central Government shall have power to reclassify any commodity in a lower class.

43. *Tribunal to decide matters with aid of assessors.*—(1) All matters shall be decided by the Tribunal with the aid of assessors.

(2) Where, in the opinion of the President of the Tribunal, any matter *prima facie* appears to involve a question of principle, it shall be decided by a Full Bench consisting of the President and the other two members, with the aid of not less than four assessors, selected by the President in equal numbers from the trade, industry and agriculture panel and from the railway panel.

(3) All other matters may be decided by a single member of the Tribunal with the aid of not more than four assessors selected by the President of the Tribunal in equal numbers from the trade, industry and agriculture panel and from the railway panel:

Provided that the President may, in his discretion, direct that any such matter shall be decided by the Full Bench:

Provided further that where a single member of the Tribunal hearing any matter considers that it involves a question of principle, he shall refer the matter to the President who shall direct that it shall be decided by the Full Bench in the manner referred to in sub-section (2).

(4) It shall be the duty of each assessor to advise the Tribunal and state his opinion on all questions arising in the matters before the Tribunal, but the Tribunal shall not be bound to act on the advice, or to conform to the opinion, of all or any of the assessors.

44. *Procedure.*—(1) With the approval of the Central Government, the Tribunal may make rules regarding its practice and procedure and generally for the effective discharge of its functions under this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the preparation of panels of assessors;

(b) the terms and conditions of the appointment of assessors;

(c) the award of costs by the Tribunal;

(d) the reference of any question to a member or officer of the Tribunal or any other person appointed by the Tribunal, for report after holding a local inquiry;

(e) the right of audience before the Tribunal, provided that any party shall be entitled to be heard in person, or by a representative duly authorised in writing, or by a legal practitioner;

(f) the disposal by the Tribunal of any proceedings before it, notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal or as assessors;

(g) a scale of fees for and in connection with the proceedings before the Tribunal.

(3) The Central Government shall give to the Tribunal such assistance as it may require, and shall also place at its disposal any information in the possession of the Central Government which that Government may think relevant to the matter before the Tribunal.

(4) Any person duly authorised in this behalf by the Central Government shall be entitled to appear and be heard in any proceedings before the Tribunal.

(5) The Tribunal shall make annually a report to the Central Government of its proceedings under this Chapter.

45. *Bar of jurisdiction of the Tribunal.*—Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of scales of charges levied by a railway administration for the carriage of passengers and their luggage, parcels, military traffic and traffic in railway materials and stores, and demurrage charges, except on a reference made to the Tribunal by the Central Government.

46. *Alteration and cancellation of certain station to station rates.*—Notwithstanding anything contained in this Chapter, a railway administration may, in respect of the carriage of any merchandise by goods train,—

- (i) quote a new station to station rate; or
- (ii) increase or reduce an existing station to station rate, not being a station to station rate introduced in compliance with an order made by the Tribunal; or
- (iii) after due notice in the manner prescribed by the Central Government, cancel any station to station rate which has not been introduced in compliance with an order made by the Tribunal, unless the Tribunal has, after notice has been given as aforesaid, granted an injunction against such cancellation; or
- (iv) withdraw, alter or amend the conditions attached to a station to station rate other than conditions introduced in compliance with an order made by the Tribunal.

46A. *Decision of the Tribunal.*—The decision of the Tribunal shall be by a majority of the members sitting and shall be final:

Provided that where a single member of the Tribunal has heard and decided any matter, he may, in his discretion, give leave to any party to appeal to the Full Bench; and if an appeal is filed in pursuance of such leave, the decision of the Full Bench or of a majority of the members thereof, as the case may be, shall be final.

46B. *Execution of orders of the Tribunal.*—The Tribunal may transmit any order made by it to a Civil Court having local jurisdiction; and such Civil Court shall execute the order as if it were a decree.

46C. *Definitions.*—In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) "classification" means the grouping of commodities into classes as notified in the Indian Railway Conference Association's Goods Tariff and as in force at the commencement of the Indian Railways (Second Amendment) Act, 1948, for the purpose of determining the rate to be charged;
- (b) "class rate" means a rate fixed according to the class given to a commodity in the classification of goods;
- (c) "commodity" includes livestock;
- (d) "demurrage" means the charge levied after the expiry of the free time allowed for loading or unloading a wagon;
- (e) "parcel" means any package or merchandise or other goods entrusted for carriage by passenger or parcels train;
- (f) "schedule rate" means a rate lower than the maximum or class rate applied on a commodity basis;
- (g) "station to station rate" means a special reduced rate applicable to a specific commodity booked between two specified stations."