
(2001) 08 DEL CK 0172
In the Delhi High Court
Case No : A.A. No. 14 of 2001

Bharat Battery Mfg. Co. (Pvt) Ltd.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 10-08-2001

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 11

Citation : (2001) 59 DRJ 697 : (2002) 1 RAJ 581

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Rajesh Benati and R.N. Madan, for the Appellant; Sunil K. Kapoor, for the Respondent

Judgement

Vijender Jain, J.—It is application for appointment of Arbitrator. It is contended by counsel for the respondent that the Arbitrator resigned on account of the conduct of the claimant. It is also contended by counsel for the respondent that the proceedings before the Arbitrator were almost complete. He has further contended that the direction may be issued to respondent to appoint an Arbitrator in terms of arbitration Clause between the parties.

2. I have given my careful considerations to arguments advanced by counsel for the parties.

3. The law regarding appointment of an Arbitration and supply of vacancy is well settled. Once the Arbitrator has resigned which in this case, the petitioner has filed letter dated 19th April, 1999 at page 25 of the paper book pursuant to which the arbitrator resigned to act further in the matter. After the Arbitrator resigned, petitioner wrote to the respondent in terms of the arbitration clause for supplying the vacancy by appointment of a new Arbitrator. Inspire of that letter, the respondent did not supply the vacancy. Petitioner thereafter filed the present petition for appointment of an Arbitrator. Once the Arbitrator has not been appointed by the respondent in terms of arbitration clause, the respondent forfeits his right to supply the vacancy. In such an eventuality the court has to

supply the vacancy. In the circumstances, I appoint Mr. J.K. Mehra, retired Judge of this Court as Arbitrator to adjudicate upon the disputes between the parties. Arbitrator shall fix his own fee.

4. Petition stands disposed of in terms of above.

5. Notice of appointment be sent to the Arbitrator.