

(2014) 10 AHC CK 0107
In the Allahabad High Court
Case No : Writ-C No. 53673 of 2014

Kali Charan Pandey and Co.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 08-10-2014

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 33

Citation : (2014) 9 ADJ 752 : (2014) 107 ALR 409 : (2015) 3 ARBLR 36 :
(2015) 2 AWC 1128

Hon'ble Judges : Arvind Kumar Mishra-I, J;Arun Tandon, J

Bench : Division Bench

Advocate : Madhur Prasad, Advocate for the Appellant

Judgement

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1. Heard Sri Madhur Prasad learned counsel for the petitioner and Sri Gyan Prakash, learned Assistant Solicitor General of India assisted by Sri Devendra Kumar, Advocate on behalf of Union of India.
2. It is not in dispute that an arbitral award was made between the contesting parties, namely, the petitioner and respondent no. 2 by the sole arbitrator i.e. respondent no. 3 on 15th March, 2014.
3. Petitioner is stated to have made applications on 29th April, 2014 and on 2nd May, 2014 for corrections in the award. These applications according to the petitioner are referable to Section 33 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act, 1996") and had been made within 30 days of the award.
4. Since the applications under Section 33 of the Act, 1996 have not been decided, he has approached this Court for a writ of mandamus directing the sole arbitrator to consider and decide the applications made under Section 33 of Act, 1996 as filed by the petitioner.

5. We have considered the submissions made by the learned counsel for the parties and have examined the provisions of Section 33 of Act, 1996.

6. On simple reading of Section 33 of Act, 1996, it is apparent that arbitral Tribunal has been granted 30 days time only from the receipt of the request from the parties to make necessary corrections or to give interpretations.

7. The sue moto powers to make corrections under sub-Section (3) of Section 33 of Act, 1996 can also be exercised within 30 days from the date of arbitral award.

8. Sub-Sections (2) and (3) of Section, 1996, which deal with the correction/ interpretation of the award do not permit any extension of time to the arbitral Tribunal. Therefore, what logically follows is that if the correction application is not granted within 30 days of the making of the application, the Tribunal will lose the jurisdiction to make the correction.

9. We may for reference reproduce sub-Sections (1), (2) and (3) to Section 33 of Act, 1996 relevant for our purposes, which reads as follows:

"33. Correction and interpretation of award; additional award.-

(1) Within thirty days from the receipt of the arbitral award, unless another period of time has been agreed upon by the parties--

(a) a party, with notice to the other party, may request the arbitral tribunal to correct any computation errors, any clerical or typographical errors or any other errors of a similar nature occurring in the award;

(b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

(2) If the arbitral tribunal considers the request made under sub-section (1) to be justified, it shall make the correction or give the interpretation within thirty days from the receipt of the request and the interpretation shall form part of the arbitral award.

(3) The arbitral tribunal may correct any error of the type referred to in clause (a) of sub-section (1), on its own initiative, within thirty days from the date of the arbitral award.

....."

10. In view of the specific language of Section 33 of Act, 1996 which is not under challenge before us, there cannot be a mandamus by this Court to the Arbitrator to act contrary to the Statutory provisions, as the outer limit fixed for making of the correction i.e. 30 days from the date the request is made has expired long back.

11. The present writ petition is accordingly dismissed.