
(2003) 07 P&H CK 0119
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 6347 of 2001

Kamal Singh

APPELLANT

Vs

Haryana State Electricity Board and Others

RESPONDENT

Date of Decision : 22-07-2003

Acts Referred:

Limitation Act, 1963 — Article 19

Citation : (2004) 1 ARBLR 154 : (2004) 136 PLR 54 : (2003) 4 RCR(Civil) 405

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : M.R. Verma, for the Appellant; S.K. Jain, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This petition u/s 115 of the Code of Civil Procedure, 1908 is directed against the order dated 28.7.2001 passed by the Civil Judge (Sr. Division), Bhiwani holding that the award of the Arbitrator dated 15.4.1998 does not suffer from any legal infirmity. Objections filed by the petitioner have been held to the time barred and the jurisdiction of the Arbitrator to award interest has also been upheld. It has also been held that the Arbitrator did not misconduct the proceedings by not affording opportunity to the petitioner.

2. Brief facts of the case are that the respondent served on the appellant a demand notice for a sum of Rs. 2,13,726.80, on account of the theft of energy by tampering with all the four M&T seals of the meter and unauthorised load of 31.024 KW against sanctioned load of 19.816 KW. The Civil Judge referred the case to the Arbitrator in pursuance to clause 29 of the terms and conditions of the arbitration agreement. The Arbitrator announced his award on 15.4.1998 by holding that the petitioner was liable to pay for the consumption of energy of the last four months prior to the checking rather than six months as the seals were reported to be tampered. Fresh bill was ordered to be sent and interest @ 18% was levied. The respondent-Board filed an application for making the award as rule of the Court whereas the petitioner filed objections. The award has been

made rule of the Court and the objections raised by the petitioner have been rejected.

3. Shri M.R. Verma, learned counsel for the petitioner has argued that the objections raised by the petitioner cannot be held to be time barred because the objections were filed on 25.6.1998 and 19.5.1998. The period of 30 days is to be counted under Article 119 of the Schedule to the Limitation Act, 1963 from the date of service of notice. According to the learned counsel, notice was issued on 18.5.1998. Mr. Verma has further argued that interest @ 18 percent is reasonable and only reasonable interest could be levied by the Arbitrator.

4. Shri S.K. Jain, learned counsel for the respondent has argued that argument with regard to the objections being within time was not raised before the Civil Judge and, therefore, the same cannot be now urged in the instant petition. Learned counsel has further submitted that revisional jurisdiction of this Court could only be exercised for any jurisdiction error and not for correcting any error on merits of the judgments. Learned counsel has further submitted that even on merits, the Civil Judge has rejected the plea that the Arbitrator has not mis-conducted himself or he has refused reasonable opportunity to the petitioner. In support of his submission, the learned counsel has placed reliance on a judgment of his Court in the case of *Steel Authority of India Ltd. v. Gupta Bros. Steel Tube Ltd.* 2001(3) R.C.R. 446.

5. After hearing the learned counsel for the parties, I am of the consideration opinion that this petition is liable to be dismissed because the Civil Judge has rightly held that the objection filed by the petitioner were time barred. Under Article 119 it was required to be shown when the period of thirty days expired. The petitioner has not been able to point out when notice was served on him. No material has been placed on record and no argument on that count was urged. Even before this Court, the date of service for the petitioner has remained a mystery. Therefore, I do not find any merit in this contention. The other contention of the learned counsel that interest @ 18% cannot be levied is also not acceptable because of the various judgments of the Supreme Court as have been relied upon by the Civil Judge. Even otherwise, the revisional jurisdiction of this Court can be exercised sparingly and only in cases where there is jurisdictional error committed by the Trial Court as has been held in *Steel Authority's* case (*supra*). The revision petition is without any merit and is thus liable to be dismissed.

For the reasons recorded above, this petition fails and the same is dismissed.