
(1999) 07 DEL CK 0099
In the Delhi High Court
Case No : Suit No. 1592-A/87

Kuldeep Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 16-07-1999

Acts Referred:

Citation : (1999) 5 AD 606 : (1999) 81 DLT 303

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. Sanjay Yadav, for the Appellant; Jagjit Singh, for the Respondent

Judgement

Manmohan Sarin, J.

IA. 2889/88 in S. 1592/87

1. This is an application u/s 5 of the Limitation Act, moved for condensation of delay in filing the objections to the award dated 29.10.1986. The ground taken for condensation of delay is that the concerned officer was under a bonafide impression that in this case objections had already been filed. This confusion arose because in a similar matter an award had been made, which was registered as suit No. 1591-A/87, to which objections have been filed. Counsel for the petitioner does not oppose the application for condensation of delay.

2. For the reasons stated and in the interest of justice, application is allowed and the delay in filing the objections to the award is condoned.

IA. 2889/88 stands disposed of.

IA. 2890/88

1. By this order, I would be disposing of the objections filed by the Union of India to the award dated 29.10.1986, given by the Arbitrator Sh. J.S. Mundrey.

2. The petitioner had been awarded a Zone contract for Zone No. 3/HQ under AEN (I)/Lucknow, Agreement No. 48/WA/Z-3/CB/77-78 dated 15.9.1977. The

General Manager, Northern Railway vide his letter No. 63-W/44/158 dated 29.11.1985 had appointed Sh. T.S. Mundrey, Arbitrator to adjudicate upon the disputes arisen between the parties. The Arbitrator had entered upon reference on 10.12.1985 and had made and published his award on 29.10.1986. Notice of the filing of the award was issued to the parties. Pursuant to the receipt of the notice, Union of India had filed its objections on 25.4.1998. By a separate order, I had allowed IA. 2889/88 and condoned the delay in filing the objections to the award.

3. The award is a non speaking one. One of the objections taken is that the Arbitrator had combined the award of claim in respect of claim Nos 2 to 6 and awarded a lump sum amount of Rs 25000/-.

3. The next objection raised by the learned counsel for the respondent is against the direction for payment to be made to the labourers through the Agency of Labour Enforcement Officer (Central) Lucknow by the Union of India, being the principal employer over and above the awarded amount. Counsel for the Petitioner does not press for award in respect of this claim being made rule of the Court as he concedes that the same is beyond the jurisdiction and reference made to the Arbitrator. This direction of the learned Arbitrator is, accordingly, set aside.

4. Another grievance of the respondent is with regard to the rejection of the counter claim of the respondent. It is urged that the counter claim has not been considered. Simply because the Arbitrator in a non speaking award has not allowed the counter claim, the same cannot be a ground to submit that there has been non-consideration of the same.

5. As regards the objection of the respondent to the award in respect of claim Nos. 2 to 6, counsel for the petitioner has drawn my attention to State of Orissa & Ors. Vs. M/s. Lall Brothers 1988 S.C. 2018, where the Apex Court held that a non speaking award cannot be challenged solely on the ground that lump sum amount was awarded without specifying the amount in respect of individual claims. Learned counsel for the petitioner also points that similar objections filed in respect of adjacent work were rejected. He relies on the judgment of the learned Single Judge in S. No. 1591-A/87 dated 8.9.1989.

6. In view of the foregoing, I find no merit in any of the contentions raised by the Union of India. The objections raised to the award are dismissed and the award dated 29.10.1986 is made rule of the Court, subject to the modification that the direction with regard to the payment to be made to Labourers through the Agency of Labour Enforcement Officer (Central) Lucknow to be made by the Union of India is set aside. A decree in terms of the award with the above modification be drawn out. The award shall form part of the decree.