

(2001) 07 DEL CK 0057

In the Delhi High Court

Case No : EAs. No. 269-271 of 2001 in Ex. No. 132 of 2001

M/s. P.C. Sharma and Co.

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-07-2001

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 34
Limitation Act, 1963 — Section 5

Citation : (2001) 93 DLT 89 : (2001) 59 DRJ 633

Hon'ble Judges : Jiwan Dass Kapoor, J

Bench : Single Bench

Advocate : Mr. Girish Aggarwal, for the Appellant; Mr. R.V. Sinha, for the Respondent

Judgement

J.D. Kapoor, J.—Admittedly the application u/s 34 of the Arbitration and Conciliation Act 1996 challenging the award has been filed by respondent Union of India after a prescribed statutory period of three months. The award was made and published on 27th November, 2000. Application u/s 5 of the Limitation Act is for condensation of delay disclosing the grounds of inordinate delay in filing the objections to the award. There is delay of more than 120 days.

2. As usual and in a cavalier and casual manner the UOI has taken the peal of official delay which normally occurs in such matters. It is unfortunate that inspire of having several such cases, respondent Union of India refuses to wake up.

3. In the instant case it is pleaded that the award was received in the office of UOI on 5th December, 2000 and application seeking modification or rectification of the same was filed which was finally disposed of vide order dated 19.1.2001. The copy of the order dated 19.1.2001 was received by the respondent on 25.1.2001. According to it as per policy the same required examination at various levels in the department including legal cell. Besides filing such application, the Ministry of Law and in this process the instant application seeking setting aside of the award could not be filed within the prescribed period.

4. Nobody can take advantage of its own wrongs or negligence or remissness. It appears that the respondent's attitude is result of the malaise that there is no accountability of the delinquent official and the system of which he is the part would always treat him with lenity because the recoveries, the legality or validity of which it seeks to challenge are not made from its pocket but from the public exchequer. Such an approach is assuming pestilential proportion. Authorities also shut their eyes for the self-same reason that they can also escape from the liability.

5. To hold the Explanation of the respondent that delay occurred on account of policy of the government in getting the matter examined at various levels not only in the department but also from Legal Cell and then deciding the counsel to be engaged through Ministry of Law, as justified or good cause is farthest from the mind of this court. Instead of setting its house in order or avoid such delay, the respondents's approach or regard to the statutory provisions appears to be casual as in every case the a procedure and policy adopted by the respondent breads delay. To condone such delay would be not only to thwart the statutory provisions but also grant license to the respondent to ignore these provisions with impunity.

6. Merely because the respondent happens to the Union of India, such latitude or indulgence can not be shown as it would hit at the very fount of the concept, law applies equally to all. Unless and until there is cogent and reasonable Explanation of delay that also for each day's delay, the same ought not to be condoned.

7. For the forgoing reasons, the application for condensation is declined and dismissed.

EA. Nos. 269-270/2001

8. Since the application for condensation of delay for filing objections to the award u/s 34 of Arbitration and Conciliation Act has been dismissed, the objections are not maintainable being barred by limitation. Both the ESs, are dismissed and disposed of.

Ex. No. 132/2001

9. Renotify on 18th October, 2001 for compliance of order dated 29th May, 2001.