

(2002) 02 DEL CK 0063

In the Delhi High Court

Case No : Suit 1520-A/93 and is 10912/93

Ralhan Lal Chand

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 05-02-2002

Acts Referred:

Citation : (2002) 3 AD 1093 : (2002) 2 ARBLR 25 : (2002) 97 DLT 372

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

Bench : Single Bench

Advocate : G.D. Chopra, for the Appellant; D.K. Singh, for the Respondent

Judgement

D.K. Jain, J.—These are the objections filed by respondent No. 1 the Union of India under Sections 30 and 33 of the Arbitration Act, 1940 (for short the Act) against the award dated 7 May 1993 made and published by the sole arbitrator, Shri S.S. Juneja.

2. The award is challenged on the ground that the arbitrator has failed to appreciate the evidence and material placed before him, while awarding: (i) Rs. 31,356/- against claim No. 11; (ii) interest @ 12% p.a. on the amounts awarded against claims No. 1, 2, 3, 5, 6, 8, 10 and 19 for a period of seven months between 20 September 1991 and the date of publishing of award as pendente lite interest; (iii) simple interest @ 14% on the awarded amount (except on pendente lite interest) from the date of award to the date of its payment or decree whichever is earlier and (iv) the costs of Rs. 2,000/-.

3. I have heard learned counsel for the parties. The main thrust of argument of learned counsel for the objector-Union of India is that since the claimant had given an undertaking to the department that he would not be charging any extra amount for substituting cement mortar for lime mortar, the arbitrator should not have ignored the said undertaking and awarded a sum of Rs. 31,356/- to the petitioner-claimant. It is also submitted that the interest awarded and the costs imposed are also unjustified and/or excessive.

4. Learned counsel for the claimant, on the other hand, has submitted that the case of the claimant throughout has been that no such undertaking had ever been given by him. What had been agreed to was that the contractor would not claim any extra benefit from the said change. It is asserted that what has been awarded by the arbitrator is the difference in the cost of cement mortar and the lime mortar, actually paid by the contractor and, Therefore, he has not derived any extra-benefit, as agreed. The award of interest and the costs is also sought to be supported as being reasonable.

5. There is no gain saying that the jurisdiction of the Court in these proceedings is very limited and an award can be interfered with only if it is apparent from the face of the award that there is no evidence to support the conclusion or if the award is based upon any legal proposition, which is erroneous. The Court does not sit in appeal over the award and review the reasons given by the arbitrator. The sufficiency or quality of reasons depends upon the facts and circumstances of each case.

6. I have carefully perused the record of the arbitrator and the award in the light of the above broad principles. I am of the considered view that the objections filed by the Union of India against the amounts awarded, except the award of interest @ 14%, are without any substance. It is clear from the award that while awarding a sum of Rs. 31,400/- against claim No. 11, on account of less payment for agreement item No. 7.06 of the terrazo flooring and sub-item No. 13(i) for the flooring work, the arbitrator has noted that the respondents were themselves issuing the cement and recovering its cost from the contractor and, Therefore, the difference between cost of the lime and the cement, initially paid by the contractor, had to be reimbursed. The arbitrator has based his award on the analysis of rates, furnished by the contractor and not disputed by the respondents. He has found that the contractor has not got any extra benefit on that score. On the contrary the respondents have been benefited by better specifications with the use of cement instead of lime. The award against this claim is well reasoned. As noted above, findings on the merit of the award cannot be challenged under Sections 30 or 33 of the Act. Even reasonableness of the reasons given in the award cannot be examined in these proceedings. I do not find any error on the face of the award, warranting interference by this court.

7. Insofar as the award of interest is concerned, it is not in dispute that the arbitrator is competent to award pendente lite and future interest. It is only the rate of interest which is being objected to as being highly excessive. I feel that the future interest awarded @ 14% is on the higher side. This portion of the award is severable. Accordingly, the award to that extent is modified and it is directed that instead of interest awarded @ 14%, the claimant will be entitled to simple interest @ 12%.

I do not consider the award of costs of Rs. 2,000/- to be arbitrary. This objection is also rejected.

8. Consequently, with the aforesaid slight modification with respect to the award of future interest, the award is made rule of the court and decree in terms thereof is passed.

9. It is pointed out that in terms of order dated 1 February 2001, a sum of Rs. 1,30,130/- has since been deposited by the respondents in this Court. In view of the statement, the petitioner/claimant shall be entitled to future interest on the awarded amount only for the period from the date of the award till date of deposit of the aforesaid amount in court. The amount deposited by the respondent in this court shall be paid to the petitioner within two weeks. If any amount still remains due to be paid to the petitioner on account of interest and costs awarded, the same shall be paid by the respondents to the petitioner within six weeks from today, failing which the petitioner will be entitled to interest @ 15% from the date of the award till actual payment.

10. The suit stands disposed of.

11. Copy of the order be given dusty to counsel for the parties.