

**(2001) 07 JH CK 0002**

**In the Jharkhand High Court**

**Case No :** Appeal from original order No. 54 of 1993 (R)

Sunit Kumar Ojha

APPELLANT

Vs

Damodar Valley Corporation and Others

RESPONDENT

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**Date of Decision :** 26-07-2001

**Acts Referred:**

Arbitration Act, 1940 — Section 20, 8  
Arbitration and Conciliation Act, 1996 — Section 34, 39(1)  
Civil Procedure Code, 1908 (CPC) — Order 41 Rule 22

**Citation :** (2001) 07 JH CK 0002

**Hon'ble Judges :** Gurusharan Sharma, J

**Bench :** Single Bench

**Advocate :** Shailesh Kumar Sinha, for the Appellant; P.K. Bhowmik, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Gurucharan Sharma, J.—An agreement was executed on 25.3.1985 for construction of spill way as per earth Dam No, 2 at Pokhrama in Giridih district between Damodar Valley Corporation and Sunit Kumar Ojha. The work was to be completed within four months from the date of receipt of the work order.

2. On the direction of Joint Director of Soil Conservation (Engineering) of the Corporation, the earth work was stopped before expiration of the stipulated period under the contract.

3. The Contractor claimed to have collected materials i.e. 30000 of Class I bricks, 600 ft. of stone cheeps and 600 ft. of sand besides 24 pieces of home pipe of 3" diameter (NP 2) at the site.

4. The spill way work could not be undertaken for want of Cement which was the responsibility of the Corporation but was not supplied inspite of repealed requests made from time to time orally and in writing. After stopage of the earth work, the materials collected at the site were damaged and taken away by

unscrupulous persons of the locality and cost of labour was also abnormally increased;

5. On 13.7.1987 the Contractor sent a Lawyer's notice under registered cover to the Corporation to appoint Arbitrator, according to Arbitration clause of the agreement in question to decide his claims and disputes raised by him. The contractor thereafter filed Title Suit No. III of 1987 under Sections 8 and 20 of the Arbitration Act. 1940 for appointment of Arbitrator.

6. By order dated 12.6.1988. Sri J.C. Halder. Superintending Engineer (C). Damodar Valley Corporation. Konar was appointed sole Arbitrator, who submitted award in sealed cover on 26.4.1989. The award was opened in presence of the parties and their respective counsel. It was unreasoned award signed on 6.2.1989, whereby a lumpsum amount of Rs. 15000/- was directed to be paid to the contractor.

7. The Contractor filed objection (Annexure 1) to the said award, inter alia, on the ground that it was barred by law of limitation, vague and indefinite and the Arbitrator also misconducted himself by not observing rules of natural justice. On the other hand, the Corporation in its rejoinder Annexure 1/a) stated that objection filed by Contractor was not within the statutory period. The Arbitrator was not bound to give separate award for each claim and it cannot be set aside for the reason that no reason has been given for the award. The award was final and binding.

8. By order dated 30.9.1992, learned 1st Subordinate Judge, Hasaribagh made the award Rule of Court. It was held that Arbitrator filed award within a stipulated period and objection to the award was filed beyond the statutory period of limitation. It was not essential for the Arbitrator to give reasoned "award and on this score the award cannot be said to be illegal. The Arbitrator has also not committed any misconduct.

9. The Contractor, therefore, preferred the present appeal u/s 39(1)(vi) of the Act and respondents have also filed a cross-objection under Order 41 Rule 22 of the Code of Civil Procedure, wherein it was stated that Arbitrator submitted award beyond the prescribed period and so it was Illegal. The Contractor was not entitled to get any single copper from the Corporation and his security amount was already forfeited.

10. The Corporation did not raise any objection to the award, rather made prayer to reject the objection filed by contractor. Hence, there is no merit in the cross objection filed by the respondents.

11. There is no merit in the appeal too. Learned Subordinate Judge has given cogent reasons for making the award Rule of Court. The Arbitrator is the sole judge of the quality as well as quantity of the evidence and it will not be for the Court to take upon itself the task of being a judge on the evidence before the Arbitrator. Appraisement of evidence by the Arbitrator is never a matter which

the Court questions or considers. In absence of any reason for making the award it is not open to the Court to interfere with the award. Further more in any event, reasonableness of the reasons given by the Arbitrator can not be challenged. In the present case the Arbitrator has not spoken his mind indicating why he has done what he has done. It is not open to the Court to probe the mental process of the Arbitrator and speculate where no reasons are given by the Arbitrator, as to what impelled him to arrive at his conclusion.

12. In the result, the appeal as well as cross objection are dismissed, but without costs.

13. Appeal dismissed.