
(1992) 04 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1686 of 1990

Tara Singh, Contractor

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 01-04-1992

Acts Referred:

Arbitration Act, 1940 — Section 30, 33
Arbitration Rules, 1940 — Rule 10, 11, 12
Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (1992) 102 PLR 126

Hon'ble Judges : Ashok Bhan, J

Bench : Single Bench

Advocate : M.P. Maleri, for the Appellant; Raghbir Choudhry, for the Respondent

Final Decision : Allowed

Judgement

Ashok Bhan, J.—On a dispute having arisen between the parties as per the arbitration clause under the agreement, the same was referred to the arbitrator for adjudication. The award was announced on 30.7.1985. Petitioner filed an application u/s 14(2) of the Arbitration Act, 1940 (hereinafter referred to as the Act) for filing of the award in Court. The Court issued notice of the application u/s 14(2) of the Act to the arbitrator as well as Union of India for 8.11.1985.

2. On 3.10.1985, the award was filed by the arbitrator in Court. No notice of the filing of the award was given to the parties by the Court under rule 11 of the rules framed by this Court named as Punjab and Haryana High Court Arbitration Rules which provides that when the award has been filed in Court, the Court shall forthwith issue notice to the parties interested in such award. On 8.11.1985 that is the date fixed, there was a strike of the members of District Bar Association, Chandigarh. Counsel for the parties did not appear any proxy counsel appeared on their behalf. The case was adjourned to 9.12.1985 for filing of the objections to the award which had already been filed. On 9.12.1985 counsel for the parties put in their appearance and prayed for time to file objections to the award. The

case was adjourned to 21-12.1985 for filing of the objections. Objections were filed on 10.12.1985 by the petitioner. In reply to the objections, respondent-Union of India raised the point that the objections have been filed beyond limitation. This objection of Union of India was upheld by the trial Court and objections filed by the petitioner were dismissed as having been filed beyond limitation. The order of the trial Court was confirmed by the appellate Court as well vide its order dated 18.1.1990. The petitioner has filed the present revision petition challenging the orders of the Courts below rejecting his objections on the ground of having been filed beyond limitation.

3. Courts below recorded a finding that although no notice was given to counsel for the parties of the (sic) of the award on 3.10.1985 but all the same the counsel through their proxy counsel who appeared on 8.11.1985 (on which date there was a strike in the district Courts) must have attained the knowledge of filing of the award and the objections having been filed beyond 30 days of the said knowledge attained on 8.11.1985 were held to be beyond limitation.

4. I have heard the learned counsel for the parties at length.

5. Objections u/s 30/33 of the Act can be filed by the objector within 30 days from the service of the notice on him by the Court informing him that the award has been filed by the arbitrator in the Court. Admittedly, no such notice was ever issued by the Court to the objector-petitioner. On 8.11.1985, the petitioner or his counsel were not aware of the filing of the award by the arbitrator. The lawyers were on strike on that date and their proxy counsel appeared only to get adjournments in the cases. There is nothing on the record to suggest that the counsel for the parties were actually made aware of the award having been filed by the arbitrator although it can be impliedly taken from the order passed that the lawyers came to know of the award having been filed as the case was adjourned to 9.12.1985 for filing objections to the award. Counsel for the petitioner filed his objections on the next day itself. Although the case was adjourned to 25.12.1985 the objections were filed on the next day itself, that is on 10.12.1985. Before the lower appellate Court, a prayer was made by the counsel for the petitioner that even if there was any delay in filing the objections then the same be condoned as there were sufficient grounds for condoning the same. On a perusal of rules 10, 11 and 12 of the rules framed by this Court, under the Arbitration Rules, it is incumbent upon the court to issue a notice to the parties regarding the filing of the award in the Court. Admittedly no notice regarding filing of the award was given to the parties after the award had been filed in Court. In the application filed by the petitioner u/s 14(2) of the Act for filing the award in Court, the date fixed was 8.11.1985. On that date there was a strike of lawyers and instead of the counsel appearing in Court, proxy counsel appeared on their behalf. The case was adjourned to 9.12.1985 for filing of objections. On the next date, the case was again adjourned to 25.12.1985 for filing the objections but the same were filed on 10.12.1985 the next day. Under the circumstances, sufficient cause has been shown for condoning the delay in

filing the objections u/s 30/33 of the Act.

6. Accordingly this revision petition is accepted, the impugned orders of the Courts below are set aside. The trial Court is directed to adjudicate upon the objections filed by the petitioner on merits and in accordance with law.

7. The parties through their counsel are directed to appear before the trial Court on 21.4.1992.