

(2006) 12 P&H CK 0033
In the Punjab And Haryana At Chandigarh

Union of India (UOI) and Others

APPELLANT

Vs

Neelam Engineering and Construction Co.

RESPONDENT

Date of Decision : 06-12-2006

Acts Referred:

Arbitration Act, 1940 — Section 14, 17, 29, 30, 33
Limitation Act, 1963 — Section 14

Citation : (2007) 146 PLR 677 : (2007) 2 RCR(Civil) 39

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The petitioners by way of present revision petition have challenged the order passed by the learned Civil Judge(Junior Division) as well as the order passed by the learned Additional District Judge, Chandigarh, vide which objections to the award filed by the petitioners were dismissed and the award dated 27th January, 1996 was ordered to be made rule of the Court.

2. M/s Neelam Engineering and Construction Company had entered into a contract agreement with the Union of India for providing additional security lighting arrangement in various zones of T.B.R.L. Range, Ramgarh near Chandigarh. On account of differences having arisen between the parties, the matter was referred to Shri T.S. Plaha, C.W.E., Chandigarh, for arbitration. The arbitrator passed an award in favour of the respondent herein. It was ordered that the respondent-claimant would be entitled to interest @ 18% per annum from the date of order till realisation. M/s. Neelam Engineering and Constructions company, respondent herein, filed a petition u/s 14(2) read with Sections 17 and 29 of the Arbitration Act, 1940 for making the award rule of the Court in which the petitioners Union of India, herein filed objection petition under Sections 30 and 33 of the Arbitration Act on 3.1.1998 with a prayer to set aside the award on the plea that the Arbitrator was guilty of misconduct. The objections filed by the petitioners were primarily dismissed by the learned Courts below on the ground

that the objections could be filed after the filing of the award and the objections filed before the filing of the award were not objections in the eyes of law. The finding of the learned Courts below is in consonance with the law laid down by the Hon''ble High Court of Madhya Pradesh in the case of Paltan Singh Gulabrai v. M.P. State Industrial Corporation Ltd. 1988 C.C.C. 75 wherein it has been held as under:

Learned Counsel for the non-applicants submitted that even if the objection against the award is taken to be within time with the aid of Section 14 of the Limitation Act, the applicant does not get any benefit out of it. As seen above, the application u/s 30 was filed on November 3, 1982, whereas the award was filed in the Court on March 24, 1983. Thus the objection was filed about 5 months before the filing of the award. In other words no objection was filed after the notice of filing of the award given to the parties. Section 17 of the Act contemplates filing of the objections against the award only after the award has been filed. (See Janardhanprasad v. Chandrashekhar and Ors. AIR 1951 Nag 198 and Lachhmi Prasad Vs. Gobardhan Das and Others, .

Similarly view was taken by the Hon''ble Bombay High Court in the case of Ratanjit Virpal and Company v. Dhiraj Lal Mani Lal AIR 1942 (29) Bom 101 as well by the Hon''ble High Court of Patna in the case of Lachhmi Prasad Vs. Gobardhan Das and Others, .

3. Mr. Kamal Sehgal appearing on behalf of the petitioners did not contest this proposition of law, but contended that in the absence of notice having been issued u/s 14(2) of the Arbitration Act which entitled the petitioners to file objections within 30 days from that notice, the award could not be made rule of the Court. The contention of the learned Counsel for the petitioners is that by not issuing a notice u/s 14(2) of the Arbitration Act, the petitioners have been denied the opportunity to file objections and, therefore, the impugned order holding that the objections filed by the petitioners were pre-mature cannot be sustained and the case deserves, to be remanded back to the learned trial court for issuing notice to the petitioners in terms of Section 14(2) of the Arbitration Act and thereafter proceed with the matter in accordance with law. In support of this contention, learned Counsel for the petitioners placed reliance on the judgment of the Hon''ble Supreme Court in the case of Secretary to Government of Karnataka and Anr. v. Harshbabu AIR 1996 S.C. 4321 wherein it has been held as under:

The period of limitation for filing objections seeking the setting aside of an arbitration award commences from the date of service of the notice u/s 14(2) issued by the Court upon the parties regarding the filing of the award. Such a notice need not be in writing but what is essential is that the notice or intimation or communication of the filing of the award must be issued by the Court to the parties and served upon the parties concerned. Date of service of notices issued by the arbitrator u/s 14(1) or the date of obtaining an endorsement on the award by the arbitrator from the party concerned is irrelevant for determining the

question of limitation for filing objections under Article 119(b) of the Limitation Act, 1963.

4. I have heard the learned Counsel for the petitioners and find no force in the contention raised by him. The Hon'ble Supreme Court in the case of Secretary to Government of Karnataka (supra) has been pleased to hold that notice u/s 14(2) is not required to be in writing. The parties should have the notice or intimation or communication of the filing of the award from the Court.

5. It is not in dispute that the petitioners in the present case had filed objections against the award on 3.1.1998 when the award had not been filed in the Court. It was only on 18th of February, 1998 that directions were issued for filing the award in the case. Thereafter on 24th of May, 1998 a notice was issued to the Arbitrator for filing for original copy of the award. It was in the presence of the parties on 27th of May, 1998 that an order was recorded that the arbitration file has been received. Thus the learned Courts below were right in coming to the conclusion that notice of filing of the award can be considered to have been issued to the petitioners on 27th of May, 1998.

6. It is also not in dispute that no objections within the stipulated period of 30 days were filed by the petitioners and, therefore, the petitioners at this stage cannot be permitted to contend that another notice is required to be given to enable them to file objections. The learned Courts below, therefore, were right in coming to the conclusion that the objections filed by the petitioners were not objections in the eyes of law having been filed prior to the filing of the award and rightly made the award rule of the Court. Thus, there is no illegality or error in the exercise of jurisdiction by the learned Courts below which may call for interference by this Court. Dismissed.