

(1991) 02 SC CK 0027

In the Supreme Court Of India

Case No : Civil Appeal No. 747 Of 1982

U.P. State Electricity Board

APPELLANT

Vs

Pateshwari Electricals and Associated Industries (P) Ltd.

RESPONDENT

Date of Decision : 12-02-1991

Acts Referred:

Arbitration Act, 1940 — Section 17

Citation : (1991) 1 ARBLR 397 : (1991) 2 SCC 718 Supp

Hon'ble Judges : Ranganath Misra, C.J.;Kuldip Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Kuldip Singh, J.—This appeal by special leave is directed against the judgment of the Allahabad High Court.

2. Two questions fell for consideration in the appeal before the High Court : (1) whether to the award of the Arbitrator under the Indian Electricity Act of 1910 the substituted provision of Section 7A under the Uttar Pradesh Amendment Act was applicable, and (2) whether the statutory Arbitrator had jurisdiction to award interest or the, amount found due. The High Court found on both the scores against the appellant-Board.

3. We have heard Mr. Sen at length in support of the appeal as also Dr. Chitale appearing for the respondent. Indisputably, the award of the arbitrator had been rendered prior to the Uttar Pradesh Amending Act by which Section 7A of the parent Act was substituted and the award was pending before the Court to be made a rule u/s 17 of the Arbitration Act. Tin's Court has taken the view in Satish Kumar and Others Vs. Surinder Kumar and Others, , that the award of an arbitrator represents the final adjudication of the claims between the parties and the proceedings u/s 17 of the Arbitration Act are a follow up action to make it executable. Logically from the ratio of this judgment it must follow that the award pronounced prior to the amendment was not open to challenge or

alteration on the basis of the substituted provision. The first contention of Mr. Sen has therefore to be negatived.

4. Coming to the admissibility of interest Mr. Sen relied upon the decision of this Court in *The Godhra Electricity Co. Ltd. and Another Vs. The State of Gujarat and Another*, . Undoubtedly this Court in that case held that the statutory arbitrator under the very Act under consideration now had no power to award interest. We are also aware of the judgment of Chinnappa Reddy, J. in this case where this Court has taken the view that in the absence of a reference regarding payability of interest of the agreement stipulating payment of interest the arbitrator has no authority to award pendente lite interest. (See *Executive Engineer (Irrigation), Balimela and Others Vs. Abhaduta Jena and Others*, 5. While in the case of *State of Gujarat* referred to above this Court held that (he arbitrator had no power to award interest it has also been indicated there that under the general law the owner of the Undertaking was entitled to be compensated for delayed payment. Admittedly, the dues of the respondent were long withheld and we find that the arbitrator has awarded compensation at 6% per annum. Even if the arbitrator had no authority to award interest and the amount representing interest was to be taken out of the award we could in equity provide the same. In such circumstances, we do not propose to interfere with the award on the award of interest. The second contention also fails. The appeal is dismissed but we make no order for costs.