

Nagar Palika, Mirzapur vs The Mirzapur Elect. Supply Co. Ltd. on 28 August, 1990

Equivalent citations: AIR1990SC2273, 1991(1)ARBLR22(SC), AIR 1990 SUPREME COURT 2273, (1991) 1 ARBILR 22 1991 SCD 62, 1991 SCD 62

Bench: M.M. Punchhi, R.M. Sahai

JUDGMENT

1. This appeal by special leave arises out of judgment and order dated 24-10-1973 of the Allahabad High Court in First Appeal from Order No. 51 /1972.

2. The dispute between the parties was referred to arbitration under the orders of the Government of Uttar Pradesh. Whereas the respondent raised three heads of dispute as enumerated in the Award, the appellant herein raised two heads. By consent of parties, all the five heads of dispute between the parties were taken cognizance of by the Arbitrator together and by his award dated 27-1-1971 decision made. When it was sought to be made rule of Court, the appellant objected to that course primarily on the ground that the Arbitrator had ignored to decide the heads of dispute and raised by it. The Trial Court dismissed the objection and the High Court in First Appeal affirmed that view which has led to this appeal.

3. We have heard Dr. Ghosh for the appellant in detail. We are not satisfied of the challenge made. It is clear from the Award that the two heads of dispute as raised by the appellant were embodied in Letter No. 707 dated 3-10-1968 sent to the Arbitrator and those are mentioned below :

1. The applicant Mirzapur Electric Supply Company Limited, Mirzapur, used for its own purposes the electric lines set up by the opposite party (at Nagarpalika, Mirzapur) at its own costs only for the street lights and (the opposite party) claimed that it should be awarded a sum of Rs. 15,000/- together with interest as against the applicant.

2. The amount realised in excess by the applicant from the opposite party as electricity dues, maintenance charges and wire costs, may be refunded, and at the same time a reasonable amount may further be refunded on account of deficiency in the light as a result of low voltage and a further sum of Rs. 4,000/- may be refunded due to non-consumption of electricity in the fused bulbs which did not burn.

4. The respondent on the other hand had raised claims to certain sums of money payable from 1-4-1966. Marshalling the entire matter, but without giving any reason, the Arbitrator rules that w.e.f. April 1, 1967 the respondent is entitled to receive from the appellant maintenance of street lights and charges at the rates specified in the Award. Dr. Ghosh's contention is that the Arbitrator had in the back of his mind the claim of the respondent as dated above and has ignored the dates of

the claims of the appellants. This argument does not appeal to us. The respondent had claimed certain sums of money w.e.f. 1-4-1966. The Arbitrator plainly has rejected the claim of the respondent for one year and has awarded charges w.e.f. April 1, 1967. From this, it cannot be said that the Arbitrator had unconsciously ignored to keep in mind the claims of the appellant which statedly were of the years 1944, 1957 and 1960 to 1966. These dates have been asserted before us on the basis of an affidavit sworn on behalf of the appellant. Otherwise in the heads of dispute referred to the Arbitrator these dates are not forthcoming. This being an Award without reasons cannot be found fault with. We are satisfied that the Arbitrator in his Award did mention of his being cognizant of the disputes raised before him and has passed the Award fully conscious of the disputes. Before the Trial Court nothing worthwhile could be suggested in challenge and even before the High Court the challenge failed bereft as it was of any basis.

5. Dr. Ghosh further pointed out that the time for arbitration expired on 31st December, 1970 and the Award was made by the Arbitrator 27 days late on 27-1-71 without formal extension of time. This argument does not appeal to us. The conduct of the parties is a major factor to waive the extension of time given by the Court. The time be taken as extended.

6. For the foregoing reasons, there is no merit in this appeal and the same is dismissed without any order as to costs.