

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 2510 of 2015 (O&M)

Date of decision : 10.4.2015

Punjab State Electricity Board

... Petitioner

VS

M/s Marudhara Conductors and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Vinod S. Bhardwaj, Advocate, for the petitioner.
Mr. Ashwani Talwar, Advocate, for caveator-respondent no.1.

Rajesh Bindal, J.

Challenge has been made in the present petition to the judgment of the lower Appellate Court whereby that of the trial court in a petition filed under Section 14 of the Arbitration Act, 1940 (for short, 'the Act'), was upheld.

It is a case in which order was placed by the petitioner to respondent no. 1. for supply of ACSR Conductors on 20.5.1983. Dispute having arisen between the parties, arbitrator was appointed, who gave award on 1.8.2002. The petitioner being aggrieved, filed objections before the trial court, which were dismissed. The order was upheld in appeal.

Learned counsel for the petitioner raised two fold contentions namely that in terms of the provisions of the Act, the award had to be passed within a period of four months of appointment of the Arbitrator, however, the same being late, without there being any extension of time, deserves to be set aside. He further submitted that supply order being of the year 1983 for which last supply was made on 25.1.1985 and the arbitration proceedings having been initiated nine years thereafter, the same were highly belated. Hence, award was liable to be set aside.

On the other hand, learned counsel for caveator/respondent no. 1 submitted that the petitioner never raised this issue earlier. The issue was not raised even before the trial court. Hence, the petitioner cannot be permitted to raise the same at this stage. He further submitted that on

account of reasons beyond the control of the respondent company, as there was strike in the factory, the supply of material was delayed. The issue raised by the respondent company regarding that was settled by the petitioner in the year 1992. Thereafter for the remaining issues, the arbitrator was got appointed. There was no delay. It was further submitted that the arbitrator appointed was consisting of three retired chief engineers of the Board and their credibility could not be doubted.

Heard learned counsel for the parties and perused the paper book.

No objection having been raised by the petitioner during the arbitration proceedings regarding period of four months having been over, it cannot be permitted to raise the plea at this stage. As far as the delay in raising the dispute and reference thereof for arbitration is concerned, it is not disputed that some of the claims of respondent no.1 were settled by the petitioner in the year 1992 and for the pending disputes on request of the respondent company, the arbitrator was appointed. Hence, it cannot be said that the dispute was raised at a belated stage. The award as such has not been challenged on merits.

For the reasons mentioned above, I do not find any merit in the present petition. The same is accordingly dismissed.

10.4.2015
vs

(Rajesh Bindal)
Judge