

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

-.-

Date of decision: 02.02.2016

1. CR 323 of 2014

Kuljit Singh and another

.....*Petitioners*

vs

Union of India and others

.....*Respodnents*

2. CR 1073 of 2015

Kamla Devi

.....*Petitioner*

vs

Union of India and others

.....*Respodnents*

3. CR 4775 of 2014

Ravi Mohindru

.....*Petitioner*

vs

Union of India and others

.....*Respodnents*

4. CR 5866 of 2014

Bhajan Singh

.....*Petitioner*

vs

Union of India and others

.....*Respodnents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Arun Bansal, Advocate
for the petitioners

Mr. Raghujeet Singh Madan, Advocate
for respondents N. 1 and 2

-.-

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

This order will dispose of aforementioned four petitions, as
common question of law is involved for adjudication. However, for the

sake of convenience, facts are taken from CR 323 of 2014.

The present petition lays challenge to the order dated 10.03.2012 (Annexure P1), whereby the application filed under Section 34 of the Arbitration and Conciliation Act, 1996 (in short, 'the 1996 Act') has been dismissed being time barred.

Counsel for the petitioners submits that the controversy raised in the present petition is squarely covered by a decision of this Court in ***Rajinder Kaur v Union of India and others*** (CR 6299 of 2012, decided on 08.11.2013) and thus, the impugned order cannot be allowed to sustain. In support of his contention, he has relied upon judgments of Hon'ble the Supreme Court ***Union of India v. Tecco Trichy Engineers and Contractors, 2005 (2) R.C.R. (Civil) 420, State of Maharashtra and others v. M/s Ark Builders Pvt. Ltd., 2011 (4) SCC 616*** and ***Benarsi Krishna Committee and others v. Karmyogi Shelters Pvt. Ltd., 2012(5) Recent Apex judgments 141***.

Counsel for the respondents, on the contrary, has referred to a decision of Co-ordinate Bench of this Court ***Union of India and another v. Sumitri Devi and others*** (FAO 215 of 2016, decided on 13.01.2016), wherein the question of limitation for filing of objections under Section 34 of the 1996 Act was answered in the following terms:-

“....No evidence has been placed on record before the Objecting Court or arbitrator to show that copy of the award was not handed over at the time of its passing. Both the parties to the lis represented before the Arbitrator and addressed arguments. Instrumentality of Central Government cannot be expected to remain idle, silent and keep on waiting receipt of award by a separate communication, thereafter, to form an opinion

for filing of appeal beyond the period of limitation as per the procedure prescribed under Section 34(3) of 1996 Act.”

Counsel has further submitted that since there is a conflict of opinion in the judgments passed by this Court, the matter may be referred to a Larger Bench.

I have heard counsel for the parties, perused the records and find the petitions to be meritorious.

The controversy raised in the present petitions is squarely covered by the judgment of this Court in *Rajinder Kaur's* case (supra). Counsel for the respondents is not in a position to controvert that the view taken by this Court in *Rajinder Kaur's* case (supra) finds fortification from the judgments of Hon'ble the Supreme Court relied upon by counsel for the petitioners. As Hon'ble the Supreme Court of India has already decided the implications of Section 31(5) of the 1996 Act in favour of the petitioners, there is no reason for referring the matter to a Larger Bench for deliberation/decision.

In view of what has been discussed here-in-above, the petitions are allowed, impugned order is set aside and the matter is remitted to the Court for proceeding with the case, in accordance with law.

Photo copy of the order be placed on the file of connected cases.

(Rekha Mittal)
Judge

02.02.2016
mohan bimbura