

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

FAO No.6234 of 2012 (O&M)

Date of decision : 04.04.2016

Punjab State Power Corporation Ltd.

...Appellant

Versus

Karnail Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Alok Jain, Advocate for the appellant.

Mr. Arun Bansal, Advocate for the respondent No.1.

AMIT RAWAL, J. (Oral)

The appellant is aggrieved of the dismissal of the objection filed against the award dated 30.06.2007.

Mr. Alok Jain, learned counsel appearing on behalf of appellant submits that in the year 1996, claim was filed with regard to the work given to the Contractor and which was rejected vide letter dated 15.10.1997 and thereafter invoke the jurisdiction of District Judge in the year 2005. As per Article 113 of the Limitation Act, the claim was barred by law of limitation and thus objection was taken in the written statement before the arbitrator.

The letter dated 15.10.1997 was sent through registered post

therefore presumption is drawn under General Clauses Act. He submits that even otherwise submission of representation on 15.10.1997, would not given cause of action to claimant to seek vindication of grievance.

Mr. Arun Bansal, learned counsel appearing on behalf of respondent No.1-Contractor submits that appellant failed to prove the factum of receipt and dispatch of the letter dated 15.10.1997 and, therefore, the claim was filed. Legal notice was sent in 2004 and the appointment of the arbitrator was sought. There is no illegality and perversity in the award, much less, order of the objecting court as the objections were not falling within the provision of Section 34 of 1996 Act and thus prays for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is merit in the submission of Mr. Jain, for the reasons that once work, as per the contract in 1996, was given to the Contractor, claim with regard to balance sale consideration on 15.10.1997 Contractor sat silent for almost eight years from 1997 and four years from the date of intimation in seeking the grievance for appointment of the Arbitrator. The provision of Article 113 of the Limitation Act would come in way. Assuming for the arguments sake, though not admitting that the letter dated 15.10.1997 was not received, even then Contractor could not have remained silent for more than eight years in seeking grievance. This aspect has not been noticed by the Arbitrator while accepting the claim, much less, by the Objecting Court. In my view objections were well within the parameters of provision of Section 34 of 1996 Act. Aforementioned fact is sufficient ground to prove the claim being barred by law of limitation.

Keeping in view the aforementioned facts and circumstances, the award of the Arbitrator and as well as of Objecting Court are hereby set aside as the claim was hopelessly barred by law of limitation.

Impugned order is set aside.

Appeal stands allowed.

04.04.2016

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**(AMIT RAWAL)
JUDGE**