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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 447/2016

GURMIT SINGH, CONTRACTOR Petitioner
Through: Mr. Khem Raj, Advocate.

versus

UNION OF INDIA Respondent

CORAM: JUSTICE S.MURALIDHAR

ORDER

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23.09.2016

1. The Court is of the considered view that this petition under Section 11 (6) of the Arbitration & Conciliation Act, 1996 ('Act') seeking the appointment of a Sole Arbitrator is misconceived.

2. To cut the long story short, the initial reference of the dispute that the Petitioner has with the Respondent was referred to an Arbitral Tribunal (AT) 24 years ago in 1992. Even according to the Petitioner, no hearings took place between 1994 and 2011. Then on 12th January 2012, the Respondent Railways appointed a two-member AT. This too did not proceed. On 12th June 2015, the Petitioner opted for Mr. Vijay Pratap Singh, CE/C/Survey as his nominee from the panel mentioned in the Respondent's letter dated 1st June, 2015. On their part, the Respondent nominated one Mr. Sanjeet.

3. The grievance of the Petitioner is that although in the letters dated 9th May, 8th June and 5th July, 2016, Mr. Vijay Pratap Singh informed the

parties of the next date of hearing of the AT, he subsequently cancelled those dates. By another letter dated 11th July, 2016, Mr. Singh informed the Petitioner that the next date before the AT was 5th August, 2016. However, this time the Petitioner chose not to participate any further and wrote a letter dated 20th July, 2016 stating that he was extremely frustrated with the conduct of the AT.

4. The Court is of the view that in the above circumstances the remedy that the Petitioner should be seeking is not one under Section 11 of the Act because this is not a case where the AT can be said to be refusing to go ahead with the arbitration. It is the Petitioner who is not willing to participate in the arbitral proceedings.

5. The petition is dismissed reserving the liberty of the Petitioner to seek other remedies in accordance with law.

S.MURALIDHAR, J

SEPTEMBER 23, 2016

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