

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14409 of 2016

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1. M/s Kamal Construction At & P.O. Mehdauli, Begusarai, District - Begusarai, Bihar through its partner Kamla Raut Singh Son of Late Triveni Singh Resident of Village and P.S. Bhagwanpur, District - Begusarai.

.... Petitioner/s

Versus

1. Union of India, through the General Manager, East Central Railway, Sonpur, Distt. - Bihar.
2. The Senior Divisional Engineer (Co-ord), East Central Railway, Sonpur, Distt - Vaishali, Bihar.
3. The Divisional Railway Manager, Engi), East Central Railway, Sonpur, Distt. - Vaishali, Bihar.
4. The Divisional Railway Manager, (Special), East Central Railway, Sonpur, Distt. - Vaishali, Bihar.
5. The Additional Divisional Engineer, East Central Railway, Sonpur, Distt. - Vaishali, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.K. Verma, Sr. Advocate
Mr. Saroj Kumar Sharma
For the Railway : Mr. Siddhartha Prasad,

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 10-07-2017

Heard learned counsel for the petitioner and learned counsel for the Railway Administration.

Learned counsel for the Railway Administration submits that he has received instruction that in terms of Clause 64.3(b) which specifically mentions that in the event the parties have not been waived off as provided under Section 12(5) of the Act, in such circumstances, the Railway will give list of four retired Railway Officers and petitioner will be at liberty to choose any of



them as an Arbitrator under Arbitration and Reconciliation Act, 1996.

Learned counsel for the petitioner submits that main thrust and idea of the amended provision is that persons must be independent not any partial as it would create sense security confidence to both parties, otherwise, there is no sense to get adjudication through arbitrator. If the Railway Officers are/is appointed there is little chance that petitioner would be able to get justice from their hands and the aim and purpose of Section 12(5) of the amended provision will be defeated.

This Court is in complete with agreement of submission of the learned counsel for the petitioner. Even if a person is not in service but is retired always will always propensity towards the Railway. In such view of the matter, the submission of learned counsel for Railway is not accepted and the same is rejected.

As I have already rejected the submission of learned counsel for the Railway now the Court is of the view that any retired Judge of this Court will be proper for resolution of the dispute as he will be impartial Arbitrator to settle the dispute.

This Court appoints Hon'ble Mr. Justice Ramesh Kumar Datta, a retired Judge of this Court as an as one of the Arbitrator of this case.



Let this order be communicate to Hon'ble Mr. Justice Ramesh Kumar Datta retired Judge of this Court and parties are directed to remain present on the date fixed by the Hon'ble Arbitrator.

Accordingly this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.7.2017
Transmission Date	NA

