

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**ARBITRATION PETITION NO. 20 OF 2017
WITH
NOTICE OF MOTION (L) NO.619 OF 2017
IN
ARBITRATION PETITION NO. 20 OF 2017**

T. Honnur Saheb ... Petitioner.
V/s.
Union of India & Ors. ... Respondents.

Mr. A. S. Rao, Advocate for the Petitioner.
Mr. Suresh Kumar, Advocate for the Respondents.

**CORAM : M. S. SANKLECHA, J
DATE : 31st AUGUST, 2017**

P.C.:-

1 This Arbitration Petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter 'the Act') challenges Arbitral Award dated 29th July 2016.

2. Mr. Rao, learned Counsel appearing for the Petitioner states that the impugned award dated 29th July 2016 falls foul as it is hit by section 34 (2) (b) (ii) of the Act i.e. an Award in conflict with the Public Policy of India. The Primary grievance of the Petitioner is that the new panel of Arbitral Tribunal had its first sitting on 29th July 2016 and the impugned award was also delivered on the very same date, particularly when one of the members of the reconstituted Arbitral Tribunal was

attending to the dispute for the very first time i.e. on 29th July 2016.

3. There is no prohibition in the Act nor even as a part of judicial approach or compliance with principles of natural Justice, in the Arbitral Tribunal passing an Award on the same day, after the hearing is completed. In the absence of any prejudice being shown by the Petitioner in having passed the arbitral award on the same date as the hearing was completed, I find no reason to interfere with the same.

4. At this Mr. Rao, learned Counsel appearing for the Petitioner contended that proceeding before the Arbitral Tribunal indicates lack of judicial approach. In support he states that the earlier panel of Arbitrators had on 3rd May 2013 and 20th May 2015 doubted the veracity of the claim made by the Petitioner on the basis of communication dated 6th September 2005 addressed by Assistant Signal and Telecom Engineer (ASTE) to Deputy Chief Signal and Telecom Engineer (DCST). Therefor it had asked the Railways for the production of the file, so as to examine the claim of the Petitioner.

5. I find that the impugned award does record consideration of the earlier direction in respect of the aforesaid communication dated 6th September, 2005 addressed by the ASTE to DCSTE in the following terms:

“Arbitral Tribunal has questioned the authenticity of his letter as the original letter is not available with the

Respondent's office file. Moreover this letter is without date and neither issued from concerned file (Dy/SG/W/118/173 of Respondent) as no file number is available nor any dispatch particular is available on this letter.”

6. From the above recording in the Award it is clear that the Arbitral Tribunal came to the conclusion that the letter dated 6th September 2005, which was claimed to have been sent by the ASTE to DCSTE was not available in the Respondent's file. This is further supported by the facts that there is neither file number nor dispatch number shown on that letter. In any case this would be matter of evidence. In any case, the letter dated 6th September 2005 has been considered by the Arbitral Tribunal and on the basis of the evidence on record has come to the particular conclusion. This conclusion, only because it is adverse to the Petitioner, would not make the impugned Award contrary to a public policy.

7. In the above view, the Arbitration Petition is dismissed. Therefore, the Notice of Motion also does not survive and it is disposed of as infructuous.

(M. S. SANKLECHA, J.)