

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2017

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.855 of 2016

M/s. Nilakantan & Sons Pvt. Ltd.,
Flat No.2, 1st Floor, Gokul Towers,
No.7, C.P.Ramaswamy Road,
Chennai 600 018.

.. Petitioner

-vs-

The Chief Engineer,
Constructions,
Southern Railways,
Egmore, Chennai.

.. Respondent

Prayer: Petition filed under Section 11(6) of the Arbitration & Conciliation Act, 1996 to appoint a Sole Arbitrator from the panel of Arbitrators of this Court as per the provisions of the Arbitration and Conciliation Act, 1996, to adjudicate all disputes between the petitioner and the respondent and to direct the respondent to pay the cost.

For Petitioner : Mr.K.Harishankar

For Respondent : Mr.P.T.Ramkumar

ORDER

This petition seeks appointment of a Sole Arbitrator to resolve the disputes between the petitioner and respondent that have arisen pursuant to agreement No.21/CA/2004, dated 22.01.2004.

2. Heard the counsel appearing for the parties.

3. Attention of this Court was drawn to clause 64(3(a)(ii) of the general conditions of the contract which reads as follows:

“In cases not covered by clause 64(3)(a)(i), the Arbitral Tribunal shall consist of a panel of three Gazetted Railway Officers not below JA grade, as the arbitrators. For this purpose, the Railway will send a panel of more than 3 names of Gazetted Railway Officers of one or more departments, of the Railway to the Contractor who will be asked to suggest to the General Manager upto 2 names out of the panel for appointment as the Contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the three arbitrators so appointed. While nominating the arbitrators it will be necessary to ensure that one of them is from the Accounts Department. An officer of Selection Grade of the Accounts Department shall be considered of equal status to the officers in SA grade of other Departments

of the Railways for the purpose of appointment of arbitrators.'

4. In accordance with the clause and by consent of the parties, I direct the General Manager of the Railways to provide a list of 6 names of Gazetted Railway Officers of one or more departments to the respondent within a period of two weeks from the date of receipt of copy of this order. The contractor shall, in accordance with the clause suggest two officers therefrom as his nominees within a period of one week from the receipt of the list. The appointment of the Panel of Arbitrators shall be done by the General Manager thereafter. The entire exercise shall be completed within four weeks from the date of receipt of a copy of this order.

5. The Tribunal shall then enter reference in the matter and after hearing the parties, pass an award as expeditiously as possible, preferably within six months from the date of the first sitting of the Tribunal.

6. The Original Petition is allowed.

05.07.2017

Note: Issue copy on 10.07.2017

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Dr.ANITA SUMANTH, J.

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