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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 20.03.2017

+ W.P.(C) 2084/2017

RAJ KUMAR DEVRAJ

..... Petitioner

versus

NATIONAL COMPANY LAW TRIBUNAL & ANR Respondents

Advocates who appeared in this case:

For the Petitioner

: Mr. Abhishek Kr. Rao and Ms. Bhavya, Advocates.

For the Respondents

: Ms. Shiva Lakshmi, CGSC with Mr. Ruchir Ranjan Rai and
Mr. P.C. Jain and Mr. Anil Kumar, Advocates for R-1 & 2

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner impugns order dated 02.02.2017 issued by the President, National Company Law Tribunal (NCLT for short) re-constituting the benches at New Delhi and also the consequential order dated 02.02.2017 (incorrectly typed as 29.06.2016 in the typed copy) whereby the President has reassigned the part-heard matters pending before Smt. Ina Malhotra, Member (Judicial) to other benches.

2. It is contended by the learned counsel for the petitioner that since the petition filed by the petitioner, pending before Smt. Ina

Malhotra, Member (Judicial) was substantially part heard, the same should not have been re-assigned to another Presiding Officer. It is submitted that on account of re-assignment, substantial loss is likely to be suffered by the petitioner in terms of legal fee as well as the hearing of the matter is going to be delayed. It is submitted that the matter was filed in the year 2006 and has been pending since then.

3. Reliance is placed on the decision of the Full Bench of the Hon'ble Allahabad High Court (comprising of three Judges) in the matter of **Smt. Chawali Vs. State of U.P.** 2015(2) ALJ 402 and of the Supreme Court of India in the matter of **High Court of Andhra Pradesh Vs. Special Deputy collector (L.A.), Andhra Pradesh & Ors.** (2007) 13 SCC 580 to contend that normally part-heard matters should not be transferred from one Bench to the other, except in exceptional cases and that also for special reasons.

4. Learned counsel for the respondents submits that the orders impugned by the petitioner are administrative orders and were passed by the President of National Company Law Tribunal exercising his administrative powers of assigning benches and allocating work to the respective benches. It is submitted that the orders were passed keeping in view the administrative exigencies for the disposal of cases.

5. Learned counsel for the respondents submits that by order dated 02.02.2017 part-heard matters pending before one bench were reassigned so that the matters could be expeditiously taken up for

disposal.

6. The impugned orders dated 02.02.2017 reads as under:

“ORDER

In exercise of the powers conferred by Section 419 of the Companies Act, 2013, the President, National Company Law Tribunal hereby re-constitutes the Benches at New Delhi for the purposes of exercising and discharging the Tribunal's powers and functions. This is in partial modification of Order dated 5th July, 2016, 29th August, 2016 and 2nd November, 2016. The benches shall comprise of:

NCLT, Principal Bench at New Delhi:

1. Chief Justice (Retd.) Shri M.M. Kumar, President
2. Shri R. Vardharajan, Member (Judicial)

NCLT, Division Bench at New Delhi:

1. Smt. Ina Malhotra, Member (Judicial)
2. Shri S.K. Mohapatra, Member (Judicial)

NCLT, Single Bench at New Delhi:

1. Shri Maharaj Krishna Hanjura, Member (Judicial)
2. All part heard matters pending before Division Bench and Single Bench at New Delhi shall stand released.
3. After taking up matters listed before the Division Benches, Hon'ble Members (Judicial) of

the Division Benches shall sit single separately and take up matters listed before them for such Single Bench.

4. This Order shall come into force with effect from 6th February, 2017.”

And

“ORDER

1. In continuation of order dated 2nd February, 2017 regarding re-constitution of Benches, NCLT Delhi.

2. The part heard matter pending before Single Bench headed by Smt. Ina Malhotra Member (Judicial) stands released by order of the President and assigned to the Benches as under for disposal.

(i) To single Bench headed by Shri R. Varadhrajan, Member (Judicial matter) from serial no. 1 to 31 of Annexure. The Bench shall be after taken up the matter listed before the Principal Bench.

(ii) To Single Bench headed by Shri Maharaj Krishna Hanjura, Member Judicial matter from Serial no. 32 to 61 Annexure.

(iii) To Single Bench headed by Smt. Ina Malhotra, Member Judicial matter beyond Serial No. 61 (Page No. 4 to 6 of the Annexure). The bench shall on after taking up the matter listed before the Division Bench.”

7. Perusal of order dated 02.02.2017 (relating to constituting various benches) shows that Smt. Ina Malhotra, Member (Judicial) is now to sit additionally in a Division Bench. It is an admitted position that hitherto she was sitting only in a single bench.

8. The cases, which are mentioned in the list, appended to order dated 02.02.2017 (relating of re-allocation of work) shows that all matter including part-heard matters, which were pending before the Single Bench headed by Smt. Ina Malhotra, Member (Judicial) have been released and distributed. Cases at serial number 1 to 31 of the Annexure have been assigned to one Bench, Cases at serial number 32 to 61 of the Annexure have been assigned to another bench and the cases after Serial No. 61 at pages 4 to 6 of the Annexure have been directed to be retained by Smt. Ina Malhotra, Member (Judicial).

9. Perusal of the said orders shows that the said orders have been passed consequent to constitution of Division Benches and Smt. Ina Malhotra, Member (Judicial) sitting additionally in a Division Bench. The cases pending before her, sitting singly, have been distributed to different Single Benches.

10. The power of distribution has been exercised across the board and all cases have been divided and distributed. Incidentally, the case of the petitioner falls in the list of cases, which have been assigned to some other presiding officer.

11. In administrative decisions relating to constitution of benches

and assignment of judicial matters, this court would not exercise powers under Article 226 of the Constitution of India and interfere with the exercise of discretion by the President/Chairman of such a Tribunal. Constitution of benches, distribution and assignment of cases is best left to the administrative discretion of the President/Chairman.

12. The impugned order has been passed keeping in view the administrative exigencies, sharing of judicial burden and in the interest of expeditious disposal of cases.

13. The judgments in the cases of Smt. Chawali (supra) and High Court of Andhra Pradesh Vs. Special Deputy collector (L.A.), Andhra Pradesh & Ors. (supra) referred to by the petitioner are not applicable to the facts of the present case, in those cases, there was inter-change in the assignment of cases between benches leading to part heard matters pending before one bench being assigned to another and vice-versa. However, in the present case, Smt. Ina Malhotra, Member (Judicial), who was hitherto only sitting singly is additionally to sit in a Division Bench, the cases assigned to her as a single bench have been divided and distributed among other benches including some work being retained by her.

14. In view of the above, I find no infirmity in the exercise of administrative discretion by the President, NCLT in passing the orders dated 02.02.2017. There is no merit in the petition. The petition is

accordingly dismissed.

15. With regard to the contention of learned counsel for the petitioner that the petition filed by the petitioner before the NCLT has been pending since the year 2006 and the reassignment is likely to further delay the hearing, the petitioner is always at liberty to make a request to the Presiding Officer for expeditious disposal.

16. I may also note that Mr. D.D.Singh, and Mr. Shyam Moorjani, Advocates had sought to orally intervene in this matter contending that they represent the private parties who are respondents in the petition filed by the petitioner pending before the NCLT. As I have already dismissed the petition, I do not deem it expedient to implead them as respondents in this petition or grant them a hearing.

17. Order Dasti under signatures of the Court Master.

MARCH 20, 2017
‘rs’ **SANJEEV SACHDEVA, J**