

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3389 of 2018

In
Civil Writ Jurisdiction Case No.5210 of 2017

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M/s Perfecto Electricals through Partner Sri Lalit Kumar Kothari, son of late Mathura Das Kothari, resident of 3, Alipur Road, Flat No.9B/3, Police Station- Alipur, Kolkatta-700027 (West Bengal).

... .. Petitioner

Versus

1. The East Central Railway through the General Manager, East Central Railway, Hajipur.
2. The General Manager, East Central Railway, Hajipur.
3. The Chief Admin. Officer (Con)/N/E/C/ Railway, Mahendrughat, Patna.
4. The Chief (S & T) Engineer/Construction (North), E.C. Railway, Mahendrughat, Patna.
5. The Deputy Chief C.S.T.E.-cum-Con.-1, East Central Railway, Samastipur.
6. The Financial Advisor & Chief Account Officer/Con. East Central Railway, Mahendrughat, Patna.

... .. Respondents.

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Appearance :

For the Petitioner/s : Mr.Bipin Kumar, Advocate
For the Opposite Party/s : Dr. Anand Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 30-01-2019 Heard learned counsel for the parties.

2. In the present application, the issue is appointment of Arbitrator, had already been concluded in the main writ petition vide C.W.J.C. No.5210 of 2017 and by that order this Court had already appointed Hon'ble Mr. Justice V. Nath, Retired Judge of this Court, as Arbitrator to adjudicate the dispute between the parties and that order was never challenged



by the Railway Administration. As Hon'ble Mr. Justice V. Nath (Retired) is working as Chairman of Bihar Land Tribunal, so he rescued himself to act as an Arbitrator.

3. Now, by way of filing this application, second effort has been made by the Railway Administration to get an appointment of Ex. employee to be an Arbitrator, placing reliance on the decision of the Hon'ble Supreme Court rendered in the case of ***The Government of Haryana PWD Haryana (B and R) Branch vs. M/s. G.F. Toll Road Pvt. Ltd. And Ors. (Civil Appeal No.27 of 2019).***

4. The issue with regard to appointment of Ex. employee as an Arbitrator has been concluded by the order dated 19.08.2017 passed in C.W.J.C. No.5210 of 2017, but here the question of substitution of another Retired Judge for appointment of Arbitrator. While passing the aforesaid order, this Court had placed reliance on the decision rendered in the case of ***Voestalpine Schienen GMBH vs. Delhi Metro Rail Corpn. Ltd.*** reported in ***(2017) 4 SCC 665***, in that judgment the Hon'ble Supreme Court has categorically held that the Ex. employee even after retirement are continued to be monetarily benefited by way of pension and other connected benefits and the Arbitration Act requires that the Arbitrator must maintain the



neutrality in adjudicating the dispute between the parties.

5. The order passed in C.W.J.C. No.5210 of 2017 was never challenged. Merely another Retired Judge has to be appointed there is no requirement of any adjudication in view of the decision passed by the Hon'ble Supreme Court subsequently. Hence, the proposal given by the Railway Administration for appointment of Ex. employee as an Arbitrator to adjudicate the dispute is rejected.

6. In such view of the matter, this Court appoint Hon'ble Mr. Justice J. N. Singh, Retired Judge of this Court, to be an Arbitrator to adjudicate the dispute between the parties.

7. Let this order be communicated to Hon'ble Mr. Justice J.N. Singh (Retired) and the parties are directed to appear before the Arbitrator on the date fixed by him.

8. With the aforesaid observations and directions, this application is disposed of.

(Shivaji Pandey, J)

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