



WEB COPY



A.No.3620 of 2022

A.No.3620 of 2022
in
Arb.O.P.(Com.Div.)D.No.84726 of 2022
M.SUNDAR, J.,

This order will now dispose of the captioned application.

2. This order has to be read in conjunction with and in continuation of proceedings made in the listing on 25.08.2022 which reads as follows:

'Ms.K.Aparna Devi, learned counsel for applicant/petitioner is before this Court. Learned counsel submits that main 'Arbitration Original Petition' ['Arb. OP' for the sake of brevity and convenience] has been presented in this Court on 05.08.2022 under Section 34 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' [hereinafter 'A and C Act' for the sake of brevity and convenience] assailing an 'arbitral award dated 26.04.2022 made in Arbitration Case No.2 of 2020' [hereinafter impugned award' for the sake of brevity] made by a 'sole Arbitrator' [AT].

2. Learned counsel submits that there has been a delay of 10 days in filing the main Arb.OP and therefore, captioned application has been taken out with a 'Condonation of Delay' [COD] prayer.

3. Mr.P.T.Ramkumar, learned Standing Counsel for Southern Railways, who is before this Court, accepts notice on behalf of the lone respondent. Learned Standing Counsel



WEB COPY



A.No.3620 of 2022

requests for one week time to get instructions and revert to this Court.

4. Registry to show the name of Standing Counsel for Southern Railways in the next listing.

List on 01.09.2022.'

3. The aforementioned proceedings shall now be read as an integral part and parcel of this order. This means that short forms, abbreviations and short references used in the aforementioned earlier proceedings dated 25.08.2022 will continue to be used in the instant order also for the sake of convenience and clarity.

4. In the hearing today, Ms.K.Aparna Devi, learned counsel on record for applicant / petitioner and Mr.P.T.Ramkumar, learned standing counsel for Southern Railways on behalf of lone respondent are before this Court.

5. Adverting to support affidavit, more particularly paragraph No.14 thereat, learned counsel on record for applicant submits that the consultant of the applicant firm fell sick, he was out of action owing to



A.No.3620 of 2022

health reasons and this is the reason for delay.

6. Mr.P.T.Ramkumar, learned counsel on record for respondent i.e., learned standing counsel for Southern Railways has not filed counter affidavit but submits that the applicant is not an individual, it is a firm and therefore, one person falling sick cannot be a ground for seeking 'condonation of delay' ['COD'].

7. Responding to this, learned counsel for applicant submits that the consultant alone was fully aware of nuances and the captioned Arb OP being a Section 34 petition it was necessary to present it articulating all the nuances. Learned counsel also submits that the delay is only 10 days which is well within tolerance cap vide proviso to sub-section (3) of Section 34 of A and C Act.

8. This Court carefully considered the rival submissions.



WEB COPY



A.No.3620 of 2022

M.SUNDAR, J.,

mk

9. This Court taking note of facts and circumstances of the case deems it appropriate to accede to COD prayer as negating the same may leave the award untested. To be noted, contractor has suffered an award with monetary implications.

10. Captioned COD application ordered as prayed for. In other words, delay condoned. There shall be no order as to costs.

01.09.2022
(1/2)

mk

A.No.3620 of 2022
in
Arb.O.P.(Com.Div.)D.No.84726 of 2022