

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.30 of 2023

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1. M/s M.K. Gupta and Co. - CJJ Infra Projects (JV) through its power of attorney holder Mr. Deepak Jain, aged about 35 years, Son of Sri Bijay Jain, Jain House, 165 Seth Srilal Market, Ward No. 1, near city Center, P.O. and P.S.- Siliguri (M.Corp), District - Darjeeling, State - West Bengal - 734001, office Address - Mobile Plaza Building, 1st floor, Sevoke Road, Siliguri - 734001.
 2. M/s M.K. Gupta and Co. having its principle place of business at Church Road, P.O. and P.S. - Siliguri, District - Darjeeling.
 3. CJJ Infra Projects (JV) giving its principle place of business at 1st floor, Mobile Plaza Building, Sevoek Road, Siliguri - 734001, District - Darjeeling, West Bengal.

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur (Bihar) - 844101.
2. The Chief Engineer/CON/NE, East Central Railway, MH X, Mahendrughat, Patna - 800004.
3. The Dy. Chief Engineer/con/IV, East Central Railway, Samastipur - 848101.
4. The Chief administrative officer (Con), North East Central Railway, Mahendrughat, Patna - 800004.
5. The XEN/C/II (Executive Engineer)/SRGR (Saraigarh), East Central Railway, Saraigarh - 852105 (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vipin Kumar Singh, Advocate
For the Respondent/s : Dr. K.N. Singh, ASG

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 16-08-2023

The objection raised by the respondent-Railways is with respect to Annexure-W, having been communicated to the petitioner, wherein four retired officers of the Railways have been indicated, whose names were from a panel prepared by the Railways, of whom two are to be nominated by the petitioner in



terms of Clause 64(3)(a)(ii)&(iii) of the general conditions of contract. The series of decisions produced as Annexure-DD along with the counter affidavit are also relied on.

2. The learned counsel for the respondent, however, relies on the decision of this Court in Request Cases No. 124 of 2022 and 125 of 2022 dated 28.06.2023. This Court had referred to the various decisions of the Hon'ble Supreme Court and held that the Railways is required to give details of those retired officers, while requesting to select two of them as members of the Arbitral Tribunal, which had not been done in the instant case also.

3. Hence, following the above cited decisions, Hon'ble Mr. Justice Shyam Kishore Sharma, a former Judge of the Patna High Court, is appointed as learned Arbitrator to adjudicate all disputes arising out of agreement entered into between the parties to the *lis*.

4. All pleas and issues raised, on merits, are left open to be considered and decided by the learned Arbitrator.

5. The learned Arbitrator shall be entitled to fee as per the schedule of the Act.

6. Since the dispute arises out of an agreement of the year 2016, the hearing be expedited.



7. The issue of limitation, if any, is left open to be raised before the Arbitral Tribunal.

8. Joint Registrar (List) is directed to communicate the order to the learned Arbitrator.

9. Learned counsel for the parties also undertake to communicate the order to the learned Arbitrator.

10. The Arbitral Tribunal shall issue notice to the respondents.

11. The Request Petition stands disposed of in the above terms.

(K. Vinod Chandran, CJ)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	18.08.2023.
Transmission Date	

