

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 28th March, 2023

(1) FAO No. 3449 of 2021 (O&M)

Umed Singh

Appellant

Versus

Union of India and others

Respondents

(2) FAO No.79 of 2022 (O&M)

Jagbir and others

Appellants

Versus

Union of India and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R. N. Lohan, Advocate for the appellant(s).

AVNEESH JHINGAN, J (Oral):

1. This order shall dispose of the above-mentioned two appeals as the facts and issue involved are similar. The facts are being taken from FAO No. 3449 of 2021.

2. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed aggrieved of dismissal of objections under Section 34 of the Act as time barred. The appeal is accompanied by an application for condoning delay of 41 days in filing the

appeal.

3. The brief facts are that land of the appellant was acquired. The arbitration proceedings initiated at the instance of the appellant culminated in award dated 23.11.2015. The objections filed under Section 34 of the Act on 3.9.2016 were dismissed as time barred. The court concluded that the appellant had withheld the true facts and had not disclosed the date of gaining knowledge of passing of the award and what steps he had taken thereafter.

4. Learned counsel for the appellant submits that there is non-compliance of Section 31(5) of the Act as no signed copy was supplied to the appellant.

5. The contention raised by learned counsel for the appellant lacks merit. It would be relevant to reproduce the findings recorded in the impugned order:

“9. The petitioner has nowhere contended that he has applied for obtaining the copy of the award, but the same has not been delivered to him. Even the petitioner has nowhere mentioned in his petition or in the application as to when he came to know about the award, which shows that he is suppressing the true facts and not coming in the court with clean hands. The Arbitrator-cum-Addl. Deputy Commissioner, Jind has passed the impugned Award on 23.11.2015 whereas the present petition has been filed on 3.9.2016 and as discussed above the present petition should have been filed within three months and the court may entertain the application/petition within further period of 30 days if sufficient cause has been shown by the applicant and delay of more than 30 days cannot be condoned. Therefore, the present petition is hopelessly barred by

limitation and accordingly the application for condonation of delay is hereby dismissed. Hence, the present petition is also dismissed being barred by limitation.”

6. The appellant had filed objections on 3.9.2016 challenging the award dated 23.11.2015. The objections were accompanied with an application under Section 5 of the Limitation Act, 1963 for condoning the delay. Neither before the District Judge nor before this court, it is revealed as to how and when the appellant got copy of the award for filing objections. It is not the case set up that the objections were filed without annexing copy of the award. The appellant has withheld the relevant facts from the court and is solely raising the issue that signed copy was not supplied to him. In spite of a specific query by this court during hearing of the case, no assistance was rendered on the factual aspect as to when the copy of the award was received. The only issue pressed is that copy of award was not supplied as per Section 31(5) of the Act.

7. At this stage, it would be relevant to note that objections filed under Section 34 of the Act were accompanied by an application under Section 5 of the Limitation Act, 1963 for condoning the delay. Law is well settled that language of Section 34(3) of the Act excludes the application of Section 5 of the Limitation Act, 1963. Reference in this regard is made to the decisions of the Supreme Court in ***Union of India v. M/s Popular Construction Co., AIR 2001 SC 4011*** and ***M/s Consolidated Engg. Enterprises v. Principal Secy. Irrigation Deptt. and others, (2008) 7 SCC 169.***

8. The appeals are dismissed.

9. Consequently, the application for condonation of delay is also

dismissed.

10. Since the main appeals have been dismissed, pending applications, if any, is rendered infructuous.

11. Photocopy of the order be placed on the file of connected case.

[AVNEESH JHINGAN]
JUDGE

28th March, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |