

AO-COM/16/2024
WITH
AP/372/2024
IA NO: GA-COM/2/2024

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE
(Commercial Division)

RMS POWER SOLUTIONS PRIVATE LIMITED
VS
UNION OF INDIA

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 18th December, 2024.

Appearance:

Mr. Suddhasatva Banerjee, Adv.
Mr. Shounak Sengupta, Adv.
Mr. Varun Kothari, Adv.
Mr. A. Choudhry, Adv.
Ms. U. Bagree, Adv.
...for the appellant

Mr. Sanajit Kumar Ghosh, Adv.
Mr. Subit Majumdar, Adv.
...for the respondent

1. In terms of the earlier order, Mr. Binay Kumar Soren, Dy. Chief Materials Manager/S&T/ER is present with the required instructions.
2. During the hearing of this matter, the Railway authorities have drawn out attention to a communication dated 29th July, 2024 from the

appellant to the Railway authorities for appointment of any retired officials as an Arbitrator at the earliest.

3. Learned counsel for the Railways submits that in view of such communication, the petitioner has waived its right under Section 12(5) of the Arbitration and Conciliation Act and in this regard has drawn our attention to paragraph no. 2905(b) of the circular of the Ministry of Railways, Railway Board dated 12th December, 2018.
4. Learned counsel for the appellant submits that in view of such communication, the Court may appoint any of the persons named by the Railway authorities in its communication dated 29th July, 2024.
5. Accordingly, by consent of the parties, Shri Goutam Banerjee, retired GM/SECR is appointed as an Arbitrator.
6. It is made clear that no disclosure statement is required to be filed by the GM in the facts and circumstances of the case as the appointment of the said Arbitrator is by the consent of the parties.
7. The remuneration, costs, charges and expenses of the Arbitrator shall be borne by the parties in equal measure.
8. The interim order passed on 25th November, 2024 shall continue for a period of three months with liberty to the appellant to apply afresh during the aforesaid period for a fresh interim order in which case the learned Arbitrator shall decide the matter uninfluenced by any observation made by this Court in the proceeding initiated under Section 9 of the Arbitration and Conciliation Act, 1996.

9. The appeal and the application are disposed of.

10. The letter dated 29th July, 2024 is taken on record.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)