



A.No.1311 of 2024

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in Arb.O.P.(Com.Div.)No.373 of 2022

KRISHNAN RAMASAMY, J.,

This application has been filed to substitute the Presiding Arbitrator in the place of Mr.S.Muralidaran to adjudicate all the claims and disputes arising out of the Agreement dated 18.12.2018 between the parties.

2. In the present case, based on the consent given by the parties, Mr.S.Muralidaran was appointed as presiding Arbitrator by this Court vide order dated 11.10.2022. However, the said presiding Arbitrator had recused himself from adjudicating the dispute between the parties and hence, the respondents had circulated a list of retired Railway Officers to the applicant, requesting them to select at least any two officers to proceed further for the appointment of presiding Arbitrator. Since the applicant had not agreed to appoint any of the persons, suggested by the respondents, as presiding Arbitrator, the present application has been filed.



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3. Both the learned counsel requested this Court to appoint an independent Arbitrator to adjudicate the dispute between the parties.

4. Heard the learned counsel for the applicant and the respondents and also perused the entire materials available on record.

5. In the present case, the dispute between the parties is arising out of the Agreement dated 18.12.2018 and upon consent of the parties, an Arbitral Tribunal was constituted by this Court vide order dated 11.10.2022, wherein Mr.S.Muralidaran was appointed as presiding Arbitrator. Thereafter, since Mr.S.Muralidaran has recused himself from adjudicating this matter, the respondents had suggested a list of retired Railway Officers to be appointed as presiding Arbitrator, however, the applicant had not agreed for the same. Hence, this application has been filed by the applicant for appointment of presiding Arbitrator.



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6. Considering the submissions made by the learned counsel for the applicant and the respondents, this Court is inclined to appoint the Presiding Arbitrator. Accordingly, this Court feels it appropriate to pass the following order:

i) The Hon'ble Mr.Justice P.Devadass Former Judge, Madras High Court, residing at No.23, Garden Street, VGN Monte Carlo, Gurusamy, Road, Nolambur, Chennai 600 095, Mobile No.9444487799, is appointed as presiding arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) The Arbitral Tribunal appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order. The Arbitral Tribunal is also directed to decide the matter without influenced by the observations made by this Court in the present order.

iii) The Presiding Arbitrator appointed herein shall be paid fees and other incidental charges, as per Schedule IV of the Act or as agreed by the Arbitral Tribunal and the same shall be borne by the parties equally. In the event of



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non-appearance of the respondents, the applicant shall bear the entire remuneration and other expenses and thereafter, the applicant can recover the same directly from the respondents and vice versa.

iv) It is left open to the parties to raise all their issues before the Arbitral Tribunal and the Arbitral Tribunal is directed to consider all the issues independently and in accordance with law.

7. This application is allowed accordingly, leaving the parties to bear their own costs. Since this Court has constituted the Arbitral Tribunal, it is open to the applicant as well as the respondents to seek other reliefs under the provisions of Arbitration and Conciliation Act, 1996, before the Arbitral Tribunal.

27.06.2024

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Note: Issue order copy on 04.07.2024



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