

OCD 24

ORDER SHEET
AP-COM/977/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

M/S. OCP INDIA PVT. LTD.
VS
UNION OF INDIA

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 2nd January, 2025.

Appearance:
Mr. Shashwat Nayak, Adv.
Mr. Anirudhya Dutta, Adv.
...for the petitioner

Mr. Ranjan K. Sinha, Adv.
Mr. Sourav Mondal, Adv.
...for the respondent

The Court: The dispute arose out of two tender notices dated December 6, 2007 and November 24, 2008. The petitioner/claimant wrote a letter to the General Manager, South Eastern Railway for appointment of an Arbitrator to adjudicate the dispute. The General Manager, South Eastern Railway by a letter dated March 20, 2013 appointed Shri Mukul Jain, Chief Transport Planning Manager (CTPM), South Eastern Railway as the Sole Arbitrator. The sole

Arbitrator passed an award. The award was challenged before the learned District Judge, Alipore vide Misc. Case No.57 of 2024. The award was set aside by a letter dated August 31, 2018 passed by the learned Additional District Judge, 13th Bench, Alipore. An appeal was preferred before this Court. During the course of hearing the respondent withdrew the same. Thus, the order of the learned Additional District Judge, 13th Bench, Alipore by which the arbitral award was set aside attained finality. Under such circumstances, the claimant approached the respondent for appointment of an Arbitrator for adjudication of the dispute by issuing proper notice in accordance with law and nominated a learned Advocate as its nominee. The notices invoking arbitration dated April 24, 2023 and August 24, 2023 are on record. The respondent replied to the said notices by asking the petitioner to nominate two out of the four retired officers of the railways who were mentioned in the said letter dated January 3, 2024. The respondent replied to the same by a letter January 31, 2024, expressing their inability to nominate any two of the four retired railway personnel. According to the claimant/petitioner, the procedure was contrary to the law laid down by the Hon'ble Apex Court. The mechanism prescribed under the general conditions had become unworkable in view of the decisions of the Hon'ble Apex Court against appointment of Arbitrators from a panel supplied by the respondent.

Under such circumstances, the application is entertained and the Court appoints Hon'ble Justice Subrata Talukdar (retired) of this High Court as the learned Arbitrator, to arbitrate upon the dispute. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.

The learned Arbitrator shall fix his own remuneration as per the Schedule of the Act.

AP-COM/977/2024 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)