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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Rev.Aplo No.7 of 2025
in
Arb O.P.(Com.Div.) No.313 of 2024

Usha

... Petitioner

Vs

1. The Senior Divisional Commercial Manager,
Salem Division,
Southern Railway,
Divisional Office,
Commercial Branch,
Salem – 635 005.

2. K.S.Bhaskar
CMM/M/PER,
Sole Arbitrator,
Southern Railways,
Ayanavaram,
Chennai – 600 023.

... Respondents

Review Application filed under Order 14 Rule 8 of Original Side



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Rules r/w Section 151 of C.P.C., to review of the impugned order dated 29.10.2024, passed by this Court vide Arb.O.P (Com.Div.) No.313 of 2024 and A.No.4049 of 2024.

For Petitioner : Mr.Antony R.Julian
For Respondents : Mr.A.Kumaraguru
(for R1)

O R D E R

This Review Application has been filed to review the order passed in Arb.O.P (Com.Div.) No.313 of 2024 and A.No.4049 of 2024, dated 29.10.2024, thereby terminating the sole arbitrator appointed, viz., the second respondent herein, and appointing a new arbitrator.

2. The learned counsel for the petitioner would submit that, as per Clause 55.2 of the Concession Agreement, no person other than a Gazetted Officer should act as an arbitrator, and if, for any reason, that is not possible, the matter is not to be referred to arbitration at all. Therefore, the arbitrator should be a Gazetted Officer; otherwise, the matter cannot be referred to arbitration.

3. On a perusal of the order passed by this Court in Arb.O.P



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(Com.Div.) No.313 of 2024 and A.No.4049 of 2024, dated 29.10.2024, this
Court explained in paragraph 8, which reads as follows:-

“8. On perusal of Clause 55.2 of the concessional agreement dated 19.09.2006 revealed that if it is not possible for a gazetted officer to act as an arbitrator, the matter must not be referred to arbitration at all. A combined reading of Clauses 55.1 and 55.2 shows that if a gazetted railway officer cannot act as arbitrator, then matters or disputes arising pursuant to the concession agreement cannot be referred to arbitration itself.”

4. In view of the above, this Court rightly appointed a new arbitrator, and there is absolutely no ground to review the order passed by this Court.



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5. Accordingly, this Review Application is dismissed. No costs.

23.04.2025

Index: Yes/No
Neutral Citation: Yes/No
kv

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G.K.ILANTHIRAIYAN, J.

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