



\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ARB.P. 2073/2024**

TOTAL POWER SOLUTIONS (THOROUGH ITS PARTNER MR. VIKAS MITTAL)Petitioner

Through: Mr. Inderjeet Singh and Mr. Arnav Sethi, Advocates

versus

THE GENERAL MANAGER NORTHERN RAILWAY & ANR.

.....Respondents

Through: Mr. Bhagvan Swarup Shukla (CGSC) with Mr. Sarvan Kumar, Adv. for UOI

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
15.01.2025

%

1. The Petitioner has approached this Court under Section 11 of the Arbitration & Conciliation Act seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties.
2. The facts of the case reveal that the Petitioner was awarded tender in respect of design, supply, erection, testing and commission of 25 KV AC single phase OHE for electrification work of the balance work of 4th line between Ballabhgarh and Jn Cabin Tuglakabad including Faridabad.
3. It is stated that the tender was awarded to the Petitioner on 21.09.2016. It is stated by the Petitioner, the site was handed over to the Respondent on 30.04.2021. It is stated that the Petitioner raised a price variation bill on 31.12.2021.



4. It is the case of the Petitioner that the said amount has not been cleared. It is stated that the Petitioner issued a notice invoking arbitration on 26.12.2023. Since the Respondent has not acceded to the appointment of the Arbitrator, the Petitioner has approached this Court for appointment of an Arbitrator. The contract is covered by the General Clause of the Contract (GCC) and Clause 64 of the said GCC contains an arbitration clause for appointment of an Arbitral Tribunal.
5. Notice was issued in the matter and learned Counsel appears on behalf of the Respondent/Railways. He states that the claim is hit by limitation.
6. This Court is of the opinion that the issue of limitation can be decided by the learned Arbitrator and this Court is not making any observation as to whether the claim is barred by time or not.
7. Accordingly, Mr. Davinder Singh, Senior Advocate, (Mob:- 9810039326) is appointed as a Sole Arbitrator to adjudicate upon the disputes between the parties.
8. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.
9. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration & Conciliation Act within a week of entering on reference.
10. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.



11. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.

12. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JANUARY 15, 2025

hsk