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

+ **EFA(OS) 2/2017**

WING COMMANDER S C JAIN (RETD)Appellant

Through: **Mr. Faiyaz Hasan & Mr.
Nadeem Khan, Advs.**

versus

THE STATE TRADING CORPORATION OF INDIA LTD

.....Respondent

Through: **Mr. Ravi Sikri, Sr. Adv. with
Mr. Arun Sanwal & Mr.
Nishant Goyal, Advocates**

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

16.09.2025

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1. The present Appeal has been filed under Section 10 of the Delhi High Court Act, 1996, read with Order XXI Rule 58 of the Code of Civil Procedure, 1908, challenging the Impugned Orders dated 04.11.2016 and 30.11.2016, passed by the learned Single Judge, being the Executing Court.

2. In the present case, the learned Arbitral Tribunal passed the main award on 10.11.2007, whereas the supplementary award was passed on 25.01.2008.

3. The award was basically rendered in two parts. Pertaining to payments under Claim Nos. 1, 2, 3, 5, 6, 7, 15, and 18, the learned Arbitrator passed a conditional award, subject to the Appellant



proving payments made to the workmen, whereas unconditional awards were passed with respect to the other claims.

4. An objection under Section 34 of the Arbitration and Conciliation Act, 1996, was filed; however, the award was upheld.

5. The Appellant filed an execution petition for the purpose of verifying whether it had fulfilled the condition of making payment to its employees.

6. A retired District and Sessions Judge was appointed as the Local Commissioner ("LC"), who, after affording an opportunity to the Appellant, submitted his report on 20.01.2016. The relevant portion of the report reads as under:

"18. The JD has filed, inter alia, its objections on 06.11.2015 wherein it is clearly stated that it has various objections regarding the authenticity of the vouchers filed on record. It is also mentioned in para 8 thereof that it has been constrained to go through the vouchers and do their own fact finding so as to see the veracity of the vouchers filed and their genuineness and while going through the same various objections, discrepancies have come up which have been detailed therein. Thereafter various objections as to the authenticity of the vouchers have been detailed. No response has been filed thereto by the DH.

19. I have already referred to the relevant paragraphs of the Award of Ld. Arbitral Tribunal in paras 11 to 15 above wherein it is clearly mentioned that in case 'the JD has any doubt about the genuineness of any such certificate, then the DH shall produce the workman'. As already mentioned the JD in its objections has categorically doubted the veracity and genuineness of the vouchers, photocopies of which have been placed on record by the DH and these objections are as follows:-

- i. Vouchers at page nos. 21 to 30 do not reflect the period during which the concerned persons mentioned therein had worked and the places where they had worked. It is further mentioned that these also do not mention fathers' names, their addresses etc. Identical lacunae are stated to be existing in the vouchers placed at page nos. 30 to 42.*
- ii. In respect of the vouchers placed at page nos. 43 to 50 it is mentioned that fathers' names, addresses of the workmen/employees, the period of payment, have not been mentioned.*



- iii. *In respect of the vouchers placed at page nos.51 to 210, it is mentioned that fathers' names, addresses of the workmen/employees, the period of payment, have not been mentioned.*
- iv. *In respect of the vouchers placed at page nos. 230 to 237, it is mentioned that addresses of the workmen/employees, have not been mentioned.*
- v. *Sh. Satyabir Singh mentioned on page no.26, Sh. Jagbir Singh mentioned on page No. 32, Sh. Jaipal Singh mentioned on page No. 39, Sh. Shishpal Singh mentioned on page No. 39 and Sh. Dharambir mentioned on page No. 36, have made representations dated 16.3.2015 stating that they have not been paid. Further LRs of late Sh. Pratap Singh mentioned on page No. 38, have made representation dated 16.3.2015 stating that Sh. Pratap Singh had not been paid.*
- vi. *Name of one workman Sh. Satbir has been mentioned twice i.e. on page nos. 122 and 140.*
- vii. *The workmen mentioned on page nos. 139 to 146 did not work in the premises of STC.*

20. In the face of the said objections of the JD about the genuineness and authenticity of the vouchers/certificates, in terms of the aforesaid Arbitral Award, for verification, it is mandatory for the DH to produce the concerned workmen/employees, who had been posted at various locations of the JD. During the course of the proceedings at one point of time it was stated by the DH that he will not be able to produce the concerned workmen/employees, who had been posted at various locations of the JD.

21. In view of the above, it appears that the DH is not in a position to satisfy the requirements in terms of the Award of Ld. Arbitral Tribunal for the purpose of carrying out the necessary verification, as directed by this Hon'ble Court. This report is being filed before this Hon'ble Court for further directions, if any, in the matter."

- 7. On the basis of the aforesaid report, the learned Executing Court disposed of the execution petition.
- 8. Learned counsel for the Appellant submits that the work was awarded to the Appellant in the year 1995, which was duly completed, and that it is now not possible to produce the workmen to whom the payments were made.
- 9. At that stage, a public notice was issued; however, the workmen



did not come forward to claim the amount. It is submitted that such a condition is onerous and that the Appellant cannot be deprived of the amount, particularly when the Appellant has already produced vouchers evidencing the payments.

10. *Per contra*, learned counsel appearing for the Respondent submits that the award passed by the learned Arbitrator has attained finality and, in terms of the award, the Appellant is required to prove that payment was made to the workmen in order to claim reimbursement. It is further submitted that the learned Executing Court has no jurisdiction to modify the award.

11. The Court has heard learned counsel for the parties at length and, with their able assistance, perused the paperbook.

12. There is no dispute that, in respect of the category of claims falling under Claim Nos. 1, 2, 3, 5, 6, 7, 15, and 18, the learned Tribunal passed a conditional award subject to the Appellant establishing payment to the workmen.

13. The Appellant never challenged the validity of such conditional award.

14. It is well settled that the learned Executing Court is not expected to travel beyond the scope of the award passed by the learned Arbitrator.

15. In the present case, the learned Executing Court even appointed an LC, who afforded an opportunity to the Appellant to prove the payment. A detailed report was thereafter submitted by the LC.

16. In these circumstances, this Court does not find any reason to interfere with the impugned orders passed by the learned Executing Court.

17. Accordingly, the present appeal, along with pending



application(s), if any, stands dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 16, 2025/v/ds/her