IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2026

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Original Petition (Com.Div.) No.803 of 2025

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Head Office (Marketing),
No.12, Thambusamy Road,
Kilpauk, Chennai – 600 010.
Now presently at CMRL Admin Building,
Poonamallee High Road, Koyambedu,
Chennai – 600 107.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Dindigul Region,
Collectorate Campus, Thadikombu Road,
Dindigul – 624 005. .... Petitioners

Vs.

B.Renuka .... Respondent

Arbitration Original Petition (Com.Div.) filed under Section 34 of the Arbitration and Conciliation Act, 1996, praying to set aside the Arbitral Award dated 18.07.2024 bearing No.02/2022 VB passed by the Arbitrators.

For Petitioners : Mr.M.K.Kabir, Senior Counsel
for Mr.R.Siddharth

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ORDER

This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 [for brevity 'the Act'], challenging the award passed by the Arbitral Tribunal dated 18.07.2024.

2. The respondent participated in the tender conducted by the Tamil Nadu Civil Supplies Corporation in respect of transportation of commodities from Dindigul to Kodaikanal for a total distance of 97 kms. The respondent was a successful bidder in the tender conducted during the period from 1996-1997 upto the year 2001-2002. Agreements were entered into between the parties in this regard.

3. The total distance of 97 kms. were divided into two paths *viz.,* plain path and hill path. The rates were approved by the Corporation as per the tender condition in which the plain path covered distance of 46 kms. and it was calculated as per the slab rate. The remaining distance of 51 kms., which was the hill path, was calculated at the rate of double the plain path rate from the slab "Distance/Slab in Kms. – 41 to 60 Kms.".

4. All the payments and dues were settled by the Corporation in favour of respondent.

5. The audit was conducted by the Indian Audit and Accounts Department and certain errors were identified in the calculation of transportation charges paid to respondent. Accordingly, the Head Office was instructed to revise the charges and recover the excess amount paid to respondent. The AG (Audit) party gave a formula to calculate the charges and after adopting the said formula, proceedings were issued for recovery of the excess charges and a show cause notice was issued to respondent on 29.09.2003 calling upon the respondent to show cause as to why the excess payment amount should not be recovered. On 17.10.2003, an explanation was sent by the respondent and since the Corporation was not convinced with the explanation, recovery orders were passed on 19.11.2003 with a direction to respondent to remit the excess amount received by them.

6. The respondent, aggrieved by the same, filed W.P.No.38161 of 2003 before this Court. Since the agreement between the parties contained an arbitration clause, the parties were directed to work out their

remedy before the Arbitral Tribunal. Insofar as recovery of the amount is concerned, interim protection was granted and it was directed to be continued till the final award was passed.

7. The Arbitral Tribunal, through award dated 18.07.2024, came to a conclusion that the recovery proceedings initiated against the respondent cannot be sustained and whatever amount has already been recovered shall be refunded. Aggrieved by the same, the present petition has been filed before this Court.

8. Heard Mr.M.K.Kabir, learned Senior Counsel appearing for petitioners and carefully perused the materials available on record. This Court also carefully perused the award passed by the Arbitral Tribunal.

9. The short issue that arises for consideration is as to whether the reasoning assigned by the Arbitral Tribunal suffers from any perversity and/or patent illegality warranting interference of this Court in exercise of its jurisdiction under Section 34 of the Act.

10. The main ground urged on the side of petitioners is that Clause 51 of the agreement clearly provides that final payment made to the contractor will be subject to audit scrutiny and if the audit scrutiny finds out any loss sustained by the Corporation, the same has to be repaid by the Contractor. In the light of this agreement between the parties, which was accepted by the respondent, it was contended that the respondent cannot wriggle out of such a liability and the finding of the Arbitral Tribunal runs contrary to the specific clause in the agreement.

11. On a careful reading of the award, the Arbitral Tribunal has assigned two reasons to reject the claim made by the petitioner Corporation. The first reason is that the calculation formula adopted was a new formula which did not find place in the tender or negotiations or in the agreement signed between the parties and therefore, the new formula cannot be given a retrospective effect. If at all, the new formula has to be adopted, it can only come into effect from 04.07.2003 when the Chairman cum Managing Director of the Corporation ordered for its implementation.

12. The next reason assigned by the Arbitral Tribunal is that the Government of Tamil Nadu decided not to initiate any further action pursuant to the audit report through their letter dated 28.03.2023 and therefore, no further action is warranted against the respondent.

13. In the considered view of this Court, the Arbitral Tribunal took into consideration Clause 51 of the Agreement and came to a conclusion that a new formula adopted at a later point of time cannot be put against the respondent by giving it a retrospective effect. This view taken by the Arbitral Tribunal is certainly a plausible view and Clause 51 of the Agreement cannot be expanded to the extent of initiating recovery proceedings based on a formula which was not even available at the time of entering into the agreement. Therefore, the finding of the Arbitral Tribunal does not suffer from any perversity or patent or manifest illegality.

14. The Arbitral Tribunal also took into consideration the letter of the Government dated 28.03.2023 wherein the Government was informed that the Public Undertaking Committee did not pursue further action on the AG (Audit) and had informed that no audit is pending. In the light of

this material, the Arbitral Tribunal came to a conclusion that the entire recovery proceedings was unwarranted. This again is a finding supported by reasons, which does not warrant interference of this Court.

In the light of the above discussion, this Court holds that the award passed by the Arbitral Tribunal does not suffer from any perversity or patent illegality. Accordingly, the award is sustained and this petition is dismissed. No costs.

19.01.2026

NCC: Yes/No
gm

N.ANAND VENKATESH, J.

gm

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