

U. P. State Electricity Board

Vs

Pateshwari Electricals & Associated Industries (P) Ltd.

Civil Appeal No. 747 of 1982

(CJI Ranganath Misra, Kuldip Singh JJ)

12.02.1991

ORDER

1. This appeal by special leave is directed against the judgment of the Allahabad High Court.
2. Two questions fell for consideration in the appeal before the High Court : (1) whether to the award of the arbitrator under the Indian Electricity Act of 1910 the substituted provision of Section 7-A under the Uttar Pradesh Amendment Act was applicable; and (2) whether the statutory arbitrator had jurisdiction to award interest on the amount found due. The High Court found on both the scores against the appellants Board.
3. We have heard Mr Sen at length in support of the appeal as also Dr Chitale appearing for the respondent. Indisputably, the award of the arbitrator had been rendered prior to the Uttar Pradesh Amending Act by which Section 7-A of the parent Act was substituted and the award was pending before the court to be made a rule under Section 17 of the Arbitration Act. This Court has taken the view in *Satish Kumar v. Surinder Kumar* [AIR 1970 SC 833 : (1969) 2 SCR 244] that the award of an arbitrator represents the final adjudication of the claims between the parties and the proceedings under Section 17 of the Arbitration Act are a follow up action to make it executable. Logically from the ratio of this judgment it must follow that the award pronounced prior to the amendment was not open to challenge or alteration on the basis of the substituted provision. The first contention of Mr Sen has therefore to be negated.
4. Coming to the admissibility of interest Mr Sen relied upon the decision of this Court in *Godhra Electricity Co. Ltd. v. State of Gujarat* [(1975) 1 SCC 199 : AIR 1975 SC 32 : (1975) 2 SCR 42]. Undoubtedly this Court in that case held that the statutory arbitrator under the very Act under consideration now had no power to award interest. We are also aware of the judgment of Chinnappa Reddy, J. in this case where this Court has taken the view that in the absence of a reference regarding payability of interest or the agreement stipulating payment of interest the arbitrator has no authority to award pendente lite interest. [See *Executive Engineer (Irrigation), Balimela v. Abhaduta Jena* [(1988) 1 SCC 418].]
5. While in the case of *State of Gujarat* referred to above this Court held that the arbitrator had no power to award interest it has also been indicated there that under the general law the owner of the undertaking was entitled to be compensated for delayed payment. Admittedly, the dues of the respondent were long withheld and we find that the arbitrator has awarded compensation at 6 per cent per annum. Even if the arbitrator had no authority to award interest and the amount representing interest was to be taken out of the award we could in equity provide the same. In such circumstances, we do not propose to interfere with the award on the award of interest. The second

contention also fails. The appeal is dismissed but we make no order of costs.

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