

Telecom District Manager, Goa and others

Vs

V. S. Dempo & Co., and others

I. A. Nos. 4-6 in Civil Appeal Nos. 10005-07 of 1995

(K. Ramaswamy, G. B. Pattanaik JJ)

18.03.1996

JUDGMENT

1. Appeals are taken on board.

2. These appeals by special (leave) arise from the judgment of the Bombay High Court, Panaji Bench made on March 31, 1995, in C.W.P.No.398/94, and batch. The facts relate to the dispute raised by the respondents for two bills, one for a sum of Rs.99,196/- and the other for Rs.71,280/-. The appellant-Union of India has taken the stand that under the Administrative Instructions issued by it, the dispute cannot be referred unless the subscriber approaches the Court and the Court gives the direction for appointment of an arbitrator under Section 7B of the Indian Telegraphs Act. Section 7B reads as under :-

"7-B Arbitration of Disputes :- (1) Except as otherwise expressly provided in this Act, if any dispute concerning any telegraph and telegraph authority and the person for whose benefit the line, appliance or apparatus, is, or has been, provided, the dispute shall be determined by arbitration and shall, for the purposes of such determination, be referred to an arbitrator appointed by the Central Government either specially for the determination of that dispute or generally for the determination of disputes under this section.

(2) The award of the arbitrator appointed under sub-section (1) shall be conclusive between the parties to the dispute and shall not be questioned in any Court."

3. A reading of Section 7B thereof would indicate that if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been provided, the dispute shall be determined by an arbitrator. Such determination shall be referred to an arbitrator appointed by the Central Government either specifically for the determination of the dispute or generally for the determination of dispute under this section. The award of the arbitrator shall be conclusive between the parties to the dispute and its correctness is prohibited to be questioned in a Court of law. It would, otherwise, be clear that any dispute, should be referred to the arbitrator by the Central Government. The arbitrator's award shall be final. In a recent judgment, considering the provisions of the Act, this Court has explained that when the arbitrator's award is final, it would be subject to only judicial review. The Judicial review by the High Court or this Court would be possible only when the arbitrator gives reasons in support of the conclusions he reaches. Be it technical or on factual basis. The Administrative Instructions issued by the Union of India that the dispute shall be referred only when there is a reference by the Court is obviously in defiance of the language used in

Section 7B. The power to refer the dispute has been given by the Parliament only with a view to see that the authority acts within reasonable limits and that when subscriber disputes the correctness of the meter reading on operation of the apparatus etc. instead of litigating the dispute in a civil Court, it should be denied by arbitrator under Section 7B. Obviously, the Act intends to limit operation expeditiously without any undue delay so that the electrical operation, envisaged under the Act, recorded to be one of the public revenue, should not be postponed due to the pendency of the proceedings. Under those circumstances, we are of the view that the High Court is right in directing that the authority under the Act is enjoined to make reference under Section 7B without any direction by the Court and if need be it is for the subscriber to approach the Court.

4. The appeals are accordingly dismissed with above directions. No costs.

Appeals dismissed.