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

% ***Judgment reserved on: 10.12.2025***

Judgment pronounced on: 20.03.2026

Judgment uploaded on: 20.03.2026

\+ FAO(OS) 125/2023, CM APPL. 59959/2023, CM APPL. 1171/2024 and CM APPL. 67733/2024

AIR INDIA LIMITED .....Appellant

Through: Dr. Abhishek Manu Singhvi, Sr. Adv. along with Ms. Anuradha Dutt, Mr. Lynn Pereira, Ms. Suman Yadav, Ms. Seema Mehta, Mr. Avinash K. Singh, and Mr. Yash Johri, Advs.

versus

ALL INDIA AIRCRAFT ENGINEERS ASSOCIATION & ANR. .....Respondents

Through: Mr. Jay Salva Sr. Adv. along with Mr. Sameer Kumar, Mr. Vaibhav Pachauri and Mr. Sahil, Advs. for R-1.

Ms. Anjana Gosain, Ms. Akansha Choudhary and Ms. Shreya Manjari, Advs. for R-2.

\+ FAO(OS) 126/2023 and CM APPL. 60347/2023

NATIONAL AVIATION COMPANY OF INDIA LIMITED .....Appellant

Through: Mr. Arvind Nigam, Sr. Adv. along with Mr. Avishkar Singhvi, Mr. Amit Mishra, Mr. Azeem Samuel, Ms. Mitakshara Goyal, Mr. Akhil Kulshrestha, Mr. Vaibhav Kharbanda, Mr. Shivam Goel and Ms. Shrijeta Pratik, Advs.

versus

INDIAN AIRCRAFT TECHNICIANS ASSOCIATION & ANR. .....Respondents

Through: Mr. Rakesh Kumar and Mr. Ramesh Babu, Advs. for R-1.
Ms. Anjana Gosain, Ms. Akansha Choudhary and Ms. Shreya Manjari, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeals under Section 37[1] of the Arbitration and Conciliation Act, 1996[2], the Appellants assail the correctness of the Judgment and Order dated 08.11.2023 [hereinafter referred to as '**Impugned Judgment**'] arising from the Petition filed by the Appellants under Section 34[3] of the A&C Act being, O.M.P. Nos.33/2016 and 34/2016, challenging two distinct arbitral awards dated 25.05.2016 [hereinafter referred to as '**the Awards**'] passed in favour of Respondents, i.e., All India Aircraft Engineers' Association [hereinafter referred to as '**AIAEA**'] and Indian Aircraft Technicians Association [hereinafter referred to as '**IATA**'], respectively, regarding their claims.

[1] Section 37
[2] A&C Act
[3] Section 34

2. The Awards assailed in the Impugned Judgment directed the Appellants to pay wage arrears along with interest and costs on the footing that arrears were payable w.e.f. 01.01.1997, and that the Appellant could not deny such arrears by relying upon the Department of Public Enterprise (DPE) Guidelines and/or Presidential Directives (PD) to contend that payments were only prospective or contingent. The Appellants assailed the Awards alleging that the Arbitral Tribunal [hereinafter referred to as '**Tribunal**'] exceeded the scope of reference, disregarded binding PDs governing pay revision, and rendered findings contrary to the contractual settlements. However, the learned Single Judge dismissed the Appellants' Section 34 Petitions, reiterating the limited scope of interference under Section 34 and rejecting the grounds urged to assail both liability and the interest component.

3. The dispute concerns whether wage revision arrears, arising from a pay revision due w.e.f. 01.01.1997, were payable to the concerned categories of employees for the period before the dates from which actual payments were released under the settlements/PDs.

FACTUAL MATRIX:

4. In order to comprehend the issues involved in the present case, relevant facts in brief are required to be noticed. The same are set out hereinbelow, as culled from FAO(OS) 125/2023.

5. The Impugned Judgment and the Awards assailed therein relate to a long-standing dispute that arose almost 18 years ago between the Appellant's predecessor-in-interest, Indian Airlines Limited

[hereinafter referred to as '**IAL**'], and its employees. The contesting Respondents are two representative employee associations, one representing aircraft engineers and the other representing aircraft technicians, who raised claims regarding wage revision arrears. It may be noted that AIAEA represents interests of 480 members who served as engineers either under the Appellants or its predecessor-in-interest and IATA represents about 2000 aircraft technicians who were previously employed or are currently employed by the Appellant and/or its predecessor-in-interest. Respondent No.2 in both the Appeals, i.e., Union of India through the Ministry of Civil Aviation, is a *pro forma* party.

6. On 14.01.1999, the DPE called for the commencement of the Sixth Round of Wage Negotiations in Public Sector Enterprises (PSEs) and issued DPE Guidelines therefor. The Managements of these aviation PSEs were now charged with conducting wage negotiations with their respective workers in accordance with the DPE Guidelines. In the aforesaid guidelines, it is noted that wage negotiations for Central PSEs had fallen due on 01.01.1997. It is clearly recorded in the DPE Guidelines that the Managements were at liberty to implement the negotiated wages after verifying with DPE and the concerned Ministry that the revisions were within approved parameters and not in conflict with the wage revisions of officers and non-unionized supervisors.

7. Subsequently, on 25.06.1999, the DPE further supplemented the earlier guidelines by issuing OM No. 2(49)/98-DPE(WC), which, *inter alia*, provided that:

i. In enterprises that had adopted pay scales different from those prescribed by the DPE, or had granted increment rates higher than those stipulated, the Management could introduce intermediary scales or suitably modify the prescribed scales, provided that the minimum and maximum limits of each pay scale remained unchanged, and such modifications were effected only in consultation with the concerned administrative Ministries and the DPE; and

ii. All Ministries/Departments were required to issue PDs in the format set out in Annexure IV to the OM, prescribing ceilings for pay scales and perquisites and providing for dearness allowance. The DPE Guidelines further stipulated that the next pay revision would be due after a period of ten years.

8. On 11.08.2004, Respondent No.2 issued a PD under Section 9 of the Air Corporations (Transfer of Undertakings and Repeal) Act, 1994[4], to Air India Limited [hereinafter referred to as '**AIL**'] to commence wage negotiations with its employees. Subsequently, on 21.07.2006, Respondent No.2 issued a similar PD to IAL, directing the airline to initiate wage negotiations with its employees, subject to the conditions that:

i. Wage revisions would conform with the DPE Guidelines;

ii. Wage revisions would be prospective, i.e., from the date of issuance of the PD;

iii. Wage revisions w.e.f. 01.01.1997 would be notional; and

[4] 1994 Act

iv. Payouts will be contingent upon cash flow.

Pertinently, conditions (ii) and (iii) above were not part of the PD issued in respect of AIL.

9. Pursuant to the PDs, IAL initiated wage negotiations with AIAEA, represented by the Air Corporations Employees Union [hereinafter referred to as '**ACEU**']. These negotiations culminated in a Memorandum of Settlement (MoS) dated 29.03.2007 between IAL and AIAEA, providing for notional fixation of pay w.e.f. 01.01.1997, while stipulating actual monetary benefits only from 01.08.2006.

10. At this stage, it becomes pertinent to note that on the same date, AIAEA addressed a communication to AIL asserting that the MoS dated 29.03.2007 was executed without prejudice to its claim for arrears from 01.01.1997, which was disputed by AIL on the ground that arrears could accrue only from 01.08.2006 unless the Government reconsidered its position.

11. Thereafter, a modified PD dated 06.06.2007 was issued by the Respondent No.2, stating that IAL could reach a settlement with ACEU, subject, *inter alia*, to the conditions that fixation of pay will be notional w.e.f. 01.01.1997, and the arrears will be payable w.e.f. 01.01.2000, excluding HRA and CCA.

12. Similarly, in the case of technicians, a MoS dated 27.07.2007 entered into between IAL and IATA provided for notional fixation from 01.01.1997 with actual payment from 01.08.2005, while leaving the issue of arrears for the intervening period unresolved.

13. This led to growing discontent among IAL employees, who agitated the issue on the ground that, unlike their counterparts in AIL, their settlements did not provide for payment of wage arrears w.e.f. 01.01.1997 respectively (excluding HRA and CCA). IAL employees had been denied arrears for the period from 01.01.1997 to 30.07.2005 under their MoS. This led to the formation of a Joint Action Committee (JAC), culminating in conciliation proceedings before the Chief Labour Commissioner (Central) [hereinafter referred to as '**CLC(C)**'] around 2008. It is pertinent to note that the CLC(C) found merit in the grounds for payment made out by the JAC and on 22.05.2008, advised the Management of IAL to take up the issue with the Union in order to arrive at a resolution. However, IAL reiterated at this meeting that it was bound by the PD issued by the Respondent No.2 and there was no scope for the renegotiations being demanded by JAC.

14. Acting on the directions of the CLC(C), the proposed merged entity National Aviation Company of India Ltd [hereinafter referred to as 'NACIL'], the Appellant's predecessor-in-interest, *vide* its letter dated 18.06.2008, placed the details of the dispute and the CLC(C)'s suggestions before Respondent No.2 and sought directions, which were never issued, even as the Government proceeded to formalise the merger of IAL and AIL into NACIL on 24.08.2008.

15. During the pending conciliation proceedings, NACIL informed the CLC(C) on 15.04.2009 that it was pursuing the matter with Respondent No.2 but could not indicate any timeline. However, this position was contradicted by Respondent No.2's letter dated

24.05.2010, which, referring to multiple earlier communications, stated that despite repeated requests, NACIL had failed to furnish its recommendations on the JAC's demand for wage arrears w.e.f. 01.01.1997, necessitating a renewed call for appropriate recommendations.

16. The record shows that NACIL submitted recommendations on 04.06.2010 proposing to accommodate the JAC's demands; however, by its reply dated 04.08.2010, Respondent No.2 rejected the proposal on the ground that it did not achieve the requisite savings in allowances/Performance Linked Incentives (PLI) in terms of the DPE Guidelines dated 14.01.1999 and 25.06.1999, and also noted NACIL's deteriorating financial condition.

17. Further, by its letter dated 25.10.2010, NACIL responded to the rejection by Respondent No.2, clarifying that its proposal was confined to residual employees of the erstwhile IAL who had been denied wage revision for the period 01.01.1997 to 31.12.2006, and was not a general wage revision. It highlighted that, while such arrears were denied to these employees, Respondent No.2 had permitted payment of arrears to approximately 17,000 Air India employees for the same period and to about 13,000 IAL employees w.e.f. 01.01.2000, contending that no valid ground existed to reject the proposal and that the rejection only reinforced allegations of discrimination. NACIL therefore urgently sought approval for payment of arrears w.e.f. 01.01.1997; however, by its communication dated 01.12.2010, Respondent No.2 rejected the request on the ground that payment of PLI, allegedly in violation of the DPE Guidelines, had

already imposed an additional financial burden on NACIL, leaving no scope to accede to the JAC's demand for arrears, and stated that the issue could be considered only upon withdrawal of the PLI.

18. Pertinently, in the Minutes of the conciliation proceedings dated 19.01.2012, the CLC(C) recorded the submission of Respondent No.1 that Respondent No.2 had, in principle, agreed during various meetings to the payment of wage arrears, with only the modalities of payment remaining to be finalised.

19. Meanwhile, Respondent No.2 justified its actions by asserting that the airlines were financially distressed. Pursuant to its Turn Around Plan (TAP), Respondent No. 2 decided to demerge the engineering department of NACIL into a new subsidiary, All India Engineering Services Limited, without prior notice to the affected employees. Apprehending adverse consequences on their service conditions, AIAEA challenged the demerger by filing a writ petition before the Bombay High Court, alleging violations of Articles 14 and 21 of the Constitution of India, principles of natural justice, and provisions of the Industrial Disputes Act, 1947[5].

20. The aforesaid writ petition, along with other writ petitions filed by similarly aggrieved Unions/Associations of NACIL, were disposed of by the Bombay High Court, treating the restructuring as an executive decision, *albeit* recording safeguards regarding continuity of service and service conditions. The controversy on wage arrears thereafter reached the Supreme Court in SLP(C) No.16397/2013 and

[5] ID Act

other connected SLP(s). *Vide* order dated 09.05.2013, it is recorded that the Appellant undertook to clear "all admitted dues, if any" within 18 months of transfer (under specified heads), and the Union of India undertook to ensure compliance/funding should the Appellant fail to do so. As parties were not *ad idem* on what constituted "admitted dues" and disputes persisted regarding heads and quantum, Justice B.N. Agarwal (Retd.) was appointed as a mediator to determine the same.

21. On a subsequent application moved by the Appellant, the Supreme Court clarified on 09.05.2014 that the reference be construed as arbitration, reading "Mediator" as "Arbitrator" and "Mediation" as "Arbitration." It is significant to note here that the Supreme Court did not make any modification or alteration in the scope of said reference.

22. Pursuant thereto, the Awards dated 25.05.2016 held, *inter alia*, that the Appellant had unequivocally admitted wage arrears; alternatively, that arrears were payable w.e.f. 01.01.1997, and that the PDs could not be used to deny arrears which accrued from the date the revision fell due. The Tribunal rejected the defence based on financial incapacity/cash flow contingency and directed payment with interest and costs. In the case of AIAEA, the quantified amount awarded was Rs.57,92,47,222/- with 12% interest from 01.09.2006 and costs, with 18% interest stipulated on failure to pay within three months. In the case of IATA, the quantified award was Rs.7,81,768/- with 12% interest from 01.08.2006 along with similar consequential directions.

23. Aggrieved thereby, the Appellants invoked Section 34, seeking the setting aside of the Awards on, *inter alia*, the following grounds, as recorded by the learned Single Judge in the Impugned Judgment:

i. The conclusion arrived at by the Tribunal that the employees of Respondent No.1 were entitled to arrears of revised wages for the period from 01.01.1997 to 31.07.2006, notwithstanding the admitted PD dated 21.07.2006, the MoS dated 29.03.2007, and the pendency of proceedings under the ID Act, was patently illegal.

ii. The directions issued by the Tribunal effectively superseded the PD dated 21.07.2006, which has statutory force; consequently, directions of such nature issued in arbitral proceedings are wholly untenable in law.

iii. The Tribunal erred in treating the employees of IAL and AIL at par, without appreciating that distinct PDs governed each entity.

iv. The Tribunal committed a patent illegality in accepting the unsubstantiated statement of AIAEA for the purpose of quantification of arrears, without directing the production of supporting documentary evidence.

v. The Tribunal gravely erred in awarding compound interest at the rate of 18% per annum on the entire adjudged amount, inclusive of interest at 12% per annum on the wage arrears, without any legal or factual justification.

24. The learned Single Judge adjudicated on the following issues, in the Impugned Judgment:

i. Whether the Tribunal exceeded the scope of reference to arbitration?

ii. Whether the Awards were contrary to the DPE guidelines and PDs governing wage revision?

iii. Whether the contractual settlements restricted entitlements to prospective effect?

iv. Whether the grant and computation of interest disclosed any patent illegality warranting interference within the limited contours of Section 34?

25. However, the learned Single Judge dismissed the Appellants' petitions on the following grounds:

i. The jurisdiction under Section 34 is supervisory and not appellate, and that interference is warranted only on statutorily confined grounds such as patent illegality/perversity going to the root of the matter. Applying the aforesaid standard, the Court found that the Appellants' contentions essentially invited re-appreciation of the factual and contractual matrix, which was impermissible.

ii. The challenge to interest was also rejected, with the Court sustaining the interest directions as awarded.

26. Aggrieved by the same, the Appellant and its predecessor-in-

interest have preferred the present Appeals.

CONTENTIONS OF THE PARTIES:

27. Heard learned Senior Counsel for the parties at length and, with their able assistance, perused the paper book.

28. Learned Senior Counsel representing the Appellants have submitted as follows:

i. The Tribunal exceeded its jurisdiction by deciding a dispute different from a dispute that was referred to it. Reliance is placed upon the judgment rendered in ***Ssangyong Engineering Construction Co. Ltd. v. NHAI***[6]**.**

ii. The scope of reference was limited to admitted dues, if any, under the MoS dated 29.03.2007. The dispute which the Tribunal purported to decide is the same dispute referred to the Industrial Tribunal on 21.08.2014 regarding legal entitlement of AIAEA to wage arrears from 01.01.1997.

iii. The Tribunal exceeded its jurisdiction by purporting to exercise powers of judicial review while condemning alleged discrimination against AIAEA members and purporting to nullify the binding PD. Reliance is placed upon ***BCCI v. Deccan Chronicle Holdings***[7].

iv. The Tribunal and the learned Single Judge erred in relying on alleged admissions by the Appellant's Management regarding payment of wage arrears *de hors* the MoS and the PD to hold that the

[6] (2019) 15 SCC 131.
[7] 2021 SCC OnLine Bom 834.

AIAEA's claims were admitted.

v. The learned Single Judge's decision to uphold the Awards is based on equitable considerations and that it had no Authority to act *ex aequo et bono*. Reliance is placed upon ***Deccan Chronicle Holdings*** *(supra).*

vi. The Tribunal could not have imposed a dual rate of interest (the subsequent higher rate clearly being penal, and not compensatory in nature), more so without giving any reasons for the higher rate. Reliance is placed upon ***Vedanta Ltd. v. Shenzhen Shandong Nuclear Power Construction Co. Ltd.***[8]

vii. Award of interest by the Tribunal is severable and can be set aside, or post-award interest can be modified relying upon the judgment rendered in ***Gayatri Balasamy v. ISG Novasoft Technologies Ltd.***[9].

29. Learned Senior Counsel representing the Respondents have submitted as follows:

i. It is now well settled that Section 34 and 37 courts have limited and extremely circumscribed jurisdiction. Reliance is placed upon the judgments rendered in ***Associate Builders v. Delhi Development Authority***[10]***; Ssangyong Engineering*** *(supra)****; MMTC Ltd. v. Vedanta Ltd.***[11]***; K Sugumar v. Hindustan Petroleum Corporation***

[8] (2019) 11 SCC 465.
[9] 2025 SCC OnLine SC 986.
[10] (2014) 3 SCR 895.
[11] (2019) 4 SCC 163.

Ltd.[12]***; South East Asia Marine Engineering & Construction Ltd.***[13]***; NHAI v. Sahakar Global Ltd.***[14]***;*** and ***Union of India & Ors. v. Indian Agro Marketing Co-operative Ltd.***[15].

ii. There is no dispute as regards either the relevant period or the entitlement of the members of the AIAEA to the payment of arrears arising out of wage revision for the period from 01.01.1997 to 31.12.2006. Even before the Supreme Court, the liability towards arrears for the aforesaid period was never put in issue. The controversy was confined solely to determining the quantum and the specific heads under which such compensation was payable.

iii. The PD dated 21.07.2006 merely required wage revision to conform to the DPE Guidelines and, being administrative in nature, lacked statutory force. Further, in light of the categorical undertakings given by AIL and the Union of India before the Supreme Court, reliance on the executive instructions dated 21.07.2006 is unsustainable. In any event, contemporaneous correspondence and conciliation proceedings clearly establish AIL's admission of liability.

iv. The Court does not have the unrestricted power to modify the Award. Reliance is placed upon ***NHAI v. M. Hakeem***[16]; and, ***M/s Larsen Air Conditioning & Refrigeration Company v. Union of India & Ors.***[17].

iv. Post Award interest on the interest amount awarded is

[12] (2020) 12 SCC 539.
[13] (2020) 5 SCC 164.
[14] 273 (2000) DLT 281.
[15] MANU/DE/5057/2023.
[16] (2021) 5 SCR 368.
[17] Civil Appeal No.3798/2023.

permissible by the Tribunal. Reliance is placed upon ***Hyder Consulting (UK) Ltd. v. State of Orissa***[18]***;*** and, ***UHL Power Company Ltd. v. State of Himachal Pradesh***[19].

30. No other submissions have been made by the learned Senior Counsel representing the parties.

ANALYSIS AND FINDINGS:

31. This Court has analysed the submissions advanced by the learned Senior Counsel for the parties.

32. It would be apposite to set out herein the scrutiny permissible by this Court in exercise of its powers under Section 37. It is now well-settled that the appellate jurisdiction of the Court under Section 37 is to be exercised with due restraint, ensuring that it does not traverse beyond the statutory confines delineated under Section 34. The Supreme Court in the judgment of ***MMTC Ltd.*** *(supra)* contemplated upon the limited and supervisory nature of an appeal under Section 37 and has observed that:

> *"14. As far as interference with an order made Under Section 34, as per Section 37, is concerned, it cannot be disputed that such interference Under Section 37 cannot travel beyond the restrictions laid down Under Section 34. In other words, the court cannot undertake an independent assessment of the merits of the award, and must only ascertain that the exercise of power by the court Under Section 34 has not exceeded the scope of the provision.* ***Thus, it is evident that in case an arbitral award has been confirmed by the court Under Section 34 and by the court in an appeal Under Section 37, this Court must be extremely cautious and slow to disturb such concurrent findings****."*
>
> ***(Emphasis supplied)***

[18] (2015) 2 SCC 189.
[19] (2022) 4 SCC 116.

33. Similar observations have been made by the Supreme Court in ***Punjab State Civil Supplies Corpn. Ltd. v. Sanman Rice Mills***[20], which reads as follows:

> ***"20. In view of the above position in law on the subject, the scope of the intervention of the court in arbitral matters is virtually prohibited, if not absolutely barred and that the interference is confined only to the extent envisaged under Section 34 of the Act. The appellate power of Section 37 of the Act is limited within the domain of Section 34 of the Act. It is exercisable only to find out if the court, exercising power under Section 34 of the Act, has acted within its limits as prescribed thereunder or has exceeded or failed to exercise the power so conferred. The Appellate Court has no authority of law to consider the matter in dispute before the arbitral tribunal on merits so as to find out as to whether the decision of the arbitral tribunal is right or wrong upon reappraisal of evidence as if it is sitting in an ordinary court of appeal. It is only where the court exercising power under Section 34 has failed to exercise its jurisdiction vested in it by Section 34 or has travelled beyond its jurisdiction that the appellate court can step in and set aside the order passed under Section 34 of the Act.*** *Its power is more akin to that superintendence as is vested in civil courts while exercising revisionary powers. The arbitral award is not liable to be interfered unless a case for interference as set out in the earlier part of the decision, is made out. It cannot be disturbed only for the reason that instead of the view taken by the arbitral tribunal, the other view which is also a possible view is a better view according to the appellate court."*
>
> ***(Emphasis supplied)***

34. Further, a three-judge Bench of the Supreme Court in ***UHL Power*** *(supra)* held the following:

> *"15. This Court also accepts as correct, the view expressed by the appellate court that the learned Single Judge committed a gross error in reappreciating the findings returned by the Arbitral Tribunal and taking an entirely different view in respect of the interpretation of the relevant clauses of the implementation agreement governing the parties inasmuch as it was not open to the said court to do so in proceedings Under Section 34 of the Arbitration Act, by virtually acting as a court of appeal.*
>
> *16.* ***As it is, the jurisdiction conferred on courts Under Section 34 of the Arbitration Act is fairly narrow, when it comes to the scope***

[20] 2024 SCC OnLine SC 2632.

of an appeal Under Section 37 of the Arbitration Act, the jurisdiction of an appellate court in examining an order, setting aside or refusing to set aside an award, is all the more circumscribed.*"*

(Emphasis supplied)

35. Further reference can be made upon the judgment rendered by the two-judge Bench of the Supreme Court in ***McDermott International Inc. v. Burn Standard Co. Ltd. & Ors.***[21], where the Court has taken a similar view. The relevant extracts of the same are extracted hereunder:

> *"**52.** The 1996 Act makes provision for the supervisory role of courts, for the review of the arbitral award only to ensure fairness.* ***Intervention of the court is envisaged in few circumstances only, like, in case of fraud or bias by the arbitrators, violation of natural justice, etc.*** *The court cannot correct errors of the arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if it is desired. So,* ***the scheme of the provision aims at keeping the supervisory role of the court at minimum level and this can be justified as parties to the agreement make a conscious decision to exclude the court's jurisdiction by opting for arbitration as they prefer the expediency and finality offered by it****.*
>
> ***
>
> ***112.*** *It is trite that the terms of the contract can be express or implied. The conduct of the parties would also be a relevant factor in the matter of construction of a contract. The construction of the contract agreement is within the jurisdiction of the arbitrators having regard to the wide nature, scope and ambit of the arbitration agreement and they cannot be said to have misdirected themselves in passing the award by taking into consideration the conduct of the parties. It is also trite that correspondences exchanged by the parties are required to be taken into consideration for the purpose of construction of a contract. Interpretation of a contract is a matter for the arbitrator to determine, even if it gives rise to determination of a question of law. (See Pure Helium India (P) Ltd. v. ONGC [(2003) 8 SCC 593] and D.D. Sharma v. Union of India [(2004) 5 SCC 325] .)*

[21] (2006) 11 SCC 181.

> ***113. <u>Once, thus, it is held that the arbitrator had the jurisdiction, no further question shall be raised and the court will not exercise its jurisdiction unless it is found that there exists any bar on the face of the award.</u>***
>
> ***114.*** *The above principles have been reiterated in Chairman and MD, NTPC Ltd. v. Reshmi Constructions, Builders & Contractors [(2004) 2 SCC 663] , Union of India v. Banwari Lal & Sons (P) Ltd. [(2004) 5 SCC 304] , Continental Construction Ltd. v. State of U.P. [(2003) 8 SCC 4] and State of U.P. v. Allied Constructions [(2003) 7 SCC 396] ."*
>
> ***(Emphasis supplied)***

36. The Courts have adopted the same consistent view in a catena of decisions, a few of which may be adverted to, namely, ***Shenzhen Shandong Nuclear Power Construction*** *(supra)*; ***Associate Builders*** *(supra)*; ***K. Sugumar*** *(supra)*; ***South East Asia Marine Engg*** *(supra)*; ***Sahakar Global Ltd.*** *(supra)*; ***Indian Agro Marketing*** *(supra)*; ***ONGC Ltd. Western Geco International Ltd.***[22]; ***Numaligarh Refinery Ltd. v. Daelim Industrial Co. Ltd.***[23]; ***Tata Hydro-Electric Power Supply Co. Ltd. v. Union of India***[24]; ***Ssangyong Engineering*** *(supra)*; and ***M. Hakeem*** *(supra)*.

37. Thus, it is a well-embedded principle in arbitration jurisprudence that the scope of interference under Section 37 is even narrower than that contemplated under Section 34. The appellate court, while examining an order passed under Section 34, does not sit in substantive review of the arbitral award, nor does it reassess or re-appreciate the evidence underlying the Arbitrator's findings. Thus, the enquiry under Section 37 is confined to testing whether the court below has acted within the statutory boundaries prescribed under

[22] (2014) 9 SCC 263.
[23] (2007) 8 SCC 466.
[24] (2003) 4 SCC 172.

Section 34, and whether its decision suffers from patent illegality, perversity, or a jurisdictional infirmity warranting correction.

38. Consistent with this framework, the Supreme Court has repeatedly underscored that an appeal under Section 37 is supervisory and not corrective in the ordinary appellate sense. The appellate court is not empowered to expand the permissible grounds of challenge, revisit factual determinations, or substitute its own view for that of either the Tribunal or the Section 34 Court. Its remit is limited to ascertaining whether the lower court has applied the correct legal standards and whether its interference with, or refusal to interfere with, the award aligns with the restrictive contours of Section 34.

39. It is in this backdrop that this Court proceeds to examine the view taken by the learned Single Judge while adjudicating the Section 34 petition in the present case.

40. At the outset, it emerges from the submissions of the learned Senior Counsel for the Appellant that the PD dated 21.07.2006 constitutes the fulcrum of the Appellant's challenge. The contention is that the Tribunal exceeded the scope of its reference by pronouncing upon the validity and effect of the said PD, asserted by the Appellant to be statutory in nature, despite the alleged pendency of related issues before the Industrial Tribunal. The learned Single Judge has, however, upheld the Tribunal's consideration and application of the said PD.

41. Therefore, the principal issue that thus arises for consideration is whether the Tribunal exceeded the scope of its mandate in recording findings which, according to the Appellant, had the effect of

nullifying the PD, and whether the learned Single Judge was justified in upholding such findings within the contours of Section 34.

42. In this context, the DPE Guidelines dated 14.01.1999 and the Supplementary Guidelines dated 25.06.1999 assume relevance. The said Guidelines contemplated fresh wage negotiations after the expiry of the 1992 pay revision, without any Government budgetary support, and required PDs to prescribe only maximum ceilings for pay, dearness allowance and perquisites, subject to the PSE's capacity to pay. The Guidelines neither authorized the prohibition of wage arrears nor contemplated the denial of wages due w.e.f. 01.01.1997. The PD dated 21.07.2006, however, restricted actual payment to a prospective date while permitting only notional fixation from 01.01.1997, which led the Management to deny arrears prior to 01.08.2006 and culminated in a MoS providing only notional fixation. AIAEA, nevertheless, expressly preserved its claim for arrears w.e.f. 01.01.1997 by incorporating non-waiver clauses and issuing a contemporaneous communication without prejudice to its rights.

43. As noticed earlier, the Tribunal came to be constituted pursuant to orders passed by the Supreme Court in SLPs arising out of writ proceedings before the Bombay High Court relating to the amalgamation of AIL and IAL. By order dated 09.05.2013, and with the consent of the parties, the Supreme Court appointed a Mediator to determine the quantum and heads of arrears payable for the period from 01.01.1997 to 31.12.2007. Upon an objection being raised by the Appellant to the adjudicatory character of the process, the Supreme Court, by a subsequent order dated 09.05.2014, clarified that the

proceedings would be treated as "arbitration" and the Mediator as an "arbitrator". The relevant extracts of the said Orders are reproduced hereinbelow:

> *"ORDER Dated 09.05.2013*
> ……
> *8. Learned senior counsel for the petitioner and learned Additional Solicitor General for the respondents agree that for this purpose, Mr. Justice B.N. Agarwal, a former Judge of this Court, may be appointed as a mediator to adjudicate the quantum/heads of arrears from 1.1.1997 to 31.12.2007 payable by respondent No. 1 to the concerned employees. We order accordingly.*
> *9. The learned Mediator may settle the terms of mediation including his remuneration in consultation with the parties.*
> *10. We request the learned Mediator to complete the exercise as expeditiously as may be possible.*
> ……
> ***
> *ORDER Dated 09.05.2014*
> *In the order dated 9.5.2013 passed by this Court, wherever word "mediator" occurs, it shall be read as "arbitrator" and word "mediation" shall be read as "arbitration".*
> *I.A. No. 2 of 2014 stands disposed of."*

44. These two orders, dated 09.05.2013 and 09.05.2014, assume significant relevance and are required to be read conjointly, as they clearly define the scope of reference to the arbitration. The clarification converting mediation into arbitration did not expand or alter the subject matter of reference, which remained confined to determining the quantum and heads of arrears payable for the period from 01.01.1997 to 31.12.2007. The mandate of the Tribunal was, therefore, limited to the adjudication of this dispute.

45. Therefore, the contention advanced on behalf of the Appellant that the mandate of the Tribunal did not extend to an examination of the PD is wholly misconceived. The Appellant has, at every stage of the proceedings, including before this Court, resisted the claim for

wage arrears for the period 01.01.1997 to 31.12.2007 solely on the basis of the PD dated 21.07.2006. In such circumstances, the determination of the quantum and heads of arrears necessarily required the Tribunal to consider the effect of the very PD relied upon by the Appellant, which was incidental and integral to the adjudication of the dispute and did not amount to the Tribunal exercising any power of judicial review over the PD.

46. Furthermore, unlike the situation in ***Ssangyong Engg*** *(supra)*, where the Tribunal had applied a contractual formula substituted by executive guidelines issued subsequent to the contract, thereby rewriting the bargain and travelling beyond the reference, the present case stands on an entirely different footing. As already established, consideration of the PD was integral to adjudicating the dispute within the defined reference. This falls squarely within the scope of the reference and does not attract the ratio of ***Ssangyong Engg.*** *(supra)*, which is concerned with impermissible alteration of contractual terms and patent illegality. The learned Single Judge was, therefore, justified in upholding the Tribunal's approach.

47. The Appellants next contended that the PD possessed statutory force and that the Tribunal acted illegally in rendering an Award which, according to the Appellants, effectively superseded such a PD.

48. The Impugned Award clearly demonstrates that the Tribunal remained conscious of the fact that the PD dated 21.07.2006 was issued by the Respondent No.2 under Section 9 of the 1994 Act. However, upon examining the factual matrix and the DPE Guidelines

which informed the issuance of the said PD, the Tribunal concluded that the denial of wage arrears w.e.f. 01.01.1997 was unjustified. The Tribunal did not purport to strike down the PD; rather, it examined its effect and permissibility in the context of the mandate referred for adjudication.

49. This Court is of the considered opinion that the learned Single Judge has rightly observed that while PD are binding administrative instructions, they do not partake the character of statutory law. The Appellant, having consistently relied upon the PD as the sole basis to deny wage arrears, did not place the said PDs before the Supreme Court either at the stage when the dispute was referred to mediation in 2013 or when the clarification order was sought in 2014. Despite being aware that the sole question referred for adjudication was the determination of quantum and heads of arrears for the period in question, the Appellants consented to arbitration. Having done so, it is not open to the Appellants to now contend that the learned Tribunal lacked jurisdiction to examine the very basis on which the Appellants resisted the claim.

50. Further, the learned Single Judge has also correctly noted that the DPE Guidelines dated 14.01.1999 and 25.06.1999 consistently proceeded on the premise that revised wages were payable w.e.f. 01.01.1997 and only required PDs to prescribe ceiling limits, leaving actual payments to the enterprise's capacity to pay. The introduction of "notional fixation" by the PD was not expressly contemplated by the DPE Guidelines and effectively deferred a benefit which had

already accrued. The Tribunal was therefore justified in examining whether such deferment could defeat the employees' entitlement.

51. Furthermore, the finding that the MoS dated 29.03.2007 did not amount to a waiver of claims for arrears is supported by the express non-waiver clauses therein and the contemporaneous "without prejudice" communication issued by AIAEA. The learned Single Judge has rightly rejected the Appellant's contention that the said MoS barred such claims.

52. Most significantly, once the Supreme Court, with the consent of all parties, referred the dispute to arbitration and expressly rejected the objection that the matter ought to be adjudicated under the ID Act, it was implicit that the Tribunal was competent to examine all issues necessary to effectively adjudicate the dispute, including the validity and effect of the PD. Respondent No.2 itself participated in the proceedings without demur. In these circumstances, the Appellants' plea that the Tribunal could not have issued directions at variance with the PD is devoid of merit.

53. The learned Single Judge has thus correctly applied the settled principles governing interference under Section 34, and the findings returned suffer from no patent illegality or jurisdictional error so as to warrant interference in the present Appeal.

54. Further, the learned Single Judge has, after a detailed examination of the record, rightly held that the conclusions of the Tribunal were founded on a proper appreciation of the documentary material and the conduct of the Appellants, and were neither perverse

nor vitiated by patent illegality. The Tribunal's acceptance of AIAEA's calculations flowed directly from the Appellants' failure to specifically controvert the charts produced or to place any alternative computation on record, despite repeated opportunities. Such a finding is plainly one of fact, based on evidence, and cannot be characterized as arbitrary or unsupported.

55. Equally, the inference drawn by the Tribunal that the Appellants had, through repeated correspondence and accounting provisions, acknowledged the liability towards wage arrears, is a plausible and reasoned view arising from the material before it. Merely labelling such communications as "recommendations" does not dilute the substantive tenor of the Appellants' stance, which unmistakably reflected acceptance of the claim and a request for financial approval to discharge the admitted liability. The learned Single Judge was therefore justified in holding that these findings did not suffer from perversity or jurisdictional error.

56. In this context, the Appellant's challenge essentially invites a re-appreciation of evidence and a substitution of the Tribunal's view with another possible view, which is impermissible. Applying the settled principle of law relating to the limited grounds available for courts to annul arbitral awards under Section 34 of the Act, and the expected need for judicial restraint, no case of patent illegality going to the root of the matter is made out. The findings are reasoned, supported by evidence, and fall well within the range of possible conclusions. Consequently, the Appellate Court finds no infirmity in the approach or conclusion of the learned Single Judge.

57. Additionally, the submission advanced on behalf of the Appellant that the Award, as upheld by the learned Single Judge, rests on impermissible equitable considerations is wholly without merit. A careful reading of the Award demonstrates that the Tribunal did not dispense justice on notions of sympathy, fairness, or compassion divorced from the governing legal framework. The observation noted by the learned Single Judge regarding the prolonged stagnation of wages merely reflects the factual backdrop against which the dispute arose and cannot be elevated to a finding that the Tribunal decided the matter *ex aequo et bono*.

58. It is well settled that while a Tribunal is prohibited from deciding disputes on pure equity in the absence of authorization under Section 28(2) of the A&C Act, it is nonetheless entitled and indeed obligated, to take into account the surrounding circumstances, conduct of parties, contemporaneous correspondence, and commercial realities insofar as they bear upon the determination of contractual and legal entitlements. The Tribunal's findings on wage arrears were firmly anchored in documentary evidence, admissions attributable to the Appellants, and the scope of reference entrusted to it. The Award neither substitutes law with equity nor grants relief contrary to the applicable legal regime.

59. The Appellants' contention that there was no material on record to justify the reference to economic realities and inflation is equally untenable. The Tribunal did not undertake an independent economic assessment or quantify inflationary indices to mould relief. The reference to the passage of time and changed economic circumstances

was incidental and contextual, underscoring the nature of the dispute, and not the basis for computation or entitlement. Such observations cannot be conflated with a decision rendered on equitable grounds.

60. Equally misplaced is the argument that the Award is vulnerable under Section 34(2) of the A&C Act on the footing that the Tribunal acted beyond its jurisdiction by applying equitable principles. The Tribunal confined itself to adjudicating the claims placed before it within the contours of the reference and on the basis of the material adduced. No case of patent illegality, perversity, or jurisdictional excess is made out. Further, the reliance placed on ***Deccan Chronicle Holdings*** *(supra)* is of no assistance to the Appellants, as the present case does not involve a substitution of contractual or legal standards with equitable discretion.

61. In sum, the Appellant's attempt to characterise the Award as one founded on equity is an artificial construct, aimed at inviting this Court to re-appreciate facts and reassess the reasoning of the Tribunal, an exercise clearly impermissible within the narrow confines of arbitral interference. The learned Single Judge rightly declined to do so, and the challenge on this ground is accordingly rejected.

62. *Lastly*, the challenge to the award of interest is equally without merit. The learned Single Judge has correctly held that the Tribunal acted within the ambit of Section 31(7) of the A&C Act in granting both pre-award and post-award interest. The discretion exercised by the Tribunal cannot be interfered with unless shown to be arbitrary or contrary to law, which is not the case here. Additionally, the

judgments relied upon by the Appellant, including ***Executive Engineer (R & B) v. Gokul Chandra Kanungo (Dead)***[25] and ***Morgan Securities & Credits Pvt. Ltd. v. Videocon Industries Ltd.***[26], do not lay down any absolute bar on the grant or manner of interest, nor do they justify substitution of the Tribunal's discretion in proceedings under Section 34.

63. The contention that post-award interest on a sum inclusive of pre-award interest amounts to impermissible "interest on interest" is squarely answered against the Appellant by the authoritative pronouncements in ***Hyder Consulting (UK) Ltd.*** *(supra)* and ***UHL Power Company Limited*** *(supra)*. It is now settled that the "sum directed to be paid by an arbitral award" under Section 31(7)(b) of the A&C Act includes the principal as well as the interest awarded under Section 31(7)(a) of the A&C Act. The reliance placed on ***Vedanta Ltd.*** *(supra)* and ***D. Khosla & Co. v. Union of India***[27], is misplaced and distinguishable on facts.

64. The submission that the rate of interest is penal or excessive merely invites re-appreciation of the merits of the award, which is impermissible. Equally, the plea for severance or modification of the interest component cannot be entertained in view of the settled law that courts have no power to modify an arbitral award under Section 34, as held in ***M. Hakeem*** *(supra)* and reiterated in ***Larsen Air Conditioning*** *(supra)*. The reliance placed on ***Gayatri Balasamy*** *(supra)* is misplaced, as the said decision carves out a limited and

[25] 2022 SCC OnLine SC 136.
[26] (2023) 1 SCC 602.
[27] (2024) 9 SCC 476.

exceptional window for modification only in narrowly circumscribed situations where such power is statutorily traceable and does not entail re-writing the award on merits. The present case does not fall within those exceptional parameters, and the relief sought by the Appellants would, in substance, amount to impermissible judicial alteration of the arbitral award.

65. We, therefore, find no error in the reasoning or conclusion of the learned Single Judge. The award of interest, as upheld, calls for no interference.

CONCLUSION:

66. In view of the foregoing discussion and for the reasons recorded hereinabove, we find that the present Appeals are devoid of merit.

67. The Impugned Judgment passed by the learned Single Judge upholding the Awards warrants no interference.

68. The Appeals are accordingly dismissed. All pending applications also stand closed.

69. There shall be no order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

MARCH 20, 2026/sp/sh