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O.S.A.No.30 of 20200

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12 / 06 / 2026
PRONOUNCED ON : 21 / 07 / 2026

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS. JUSTICE K.GOVINDARAJAN
THILAKAVADI

O.SA.No.30 of 2020 &
C.M.P.No.1252 of 2020

M/s.Tuticorin Post Trust,
Rep. by its Chairman,
Tuticorin.

Now as;

M/s.V.O.Chidambaranar Port Trust,
Tuticorin - 628 004.

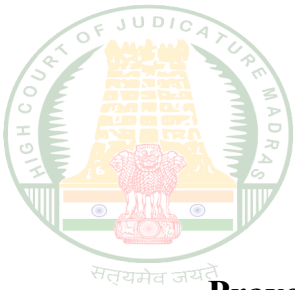
... Appellant

Vs.

1.Tamil Nadu Water Supply and
Drainage Board, Chepauk,
Chennai - 600 005.
Rep. by its Chairman.

2.Thiru.R.Jonathan Gnaniah B.Sc., B.L.,
Sole Arbitrator,
District and Sessions Judge (Retired),
Plot No.637, Dr.Chelladurai Nagar,
Achimadam,
Tirunelveli - 627 011.

... Respondents



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Prayer: This Original Side Appeal is filed under Order XXXVI Rule 1 of O.S.Rules r/w Clause 15 of Letters Patent, to set aside the Judgment and Decree in O.P.No.765 of 2013, dated 11.01.2019.

For Appellant : Mr.R.Yashod Vardhan
Senior Advocate
For Mr.S.Yashwanth

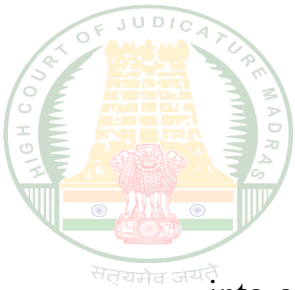
For Respondent : Mr.A.Abdul Hameed
Senior Advocate
For Mrs.S.Mekhala
Standing Counsel for TWAD for R1

R2 - Sole Arbitrator

JUDGMENT

P.VELMURUGAN, J.

The appellant/Tuticorin Port Trust has preferred the present Original Side Appeal challenging the order dated 11.01.2019 passed in O.P.No.765 of 2013, which came to be disposed of along with O.P.No.865 of 2013 filed by the respondent/Tamil Nadu Water Supply and Drainage Board, under a common order of the learned Single Judge.



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2. The case of the appellant/Tuticorin Port Trust is that they entered

into an agreement dated 14.03.1991 with the respondent/Tamil Nadu Water Supply and Drainage Board for effecting water supply to its staff quarters situated within the Port area. Under the agreement, water charges were payable at the rate specified in Schedule-B and the same was subject to revision by the respondent Board from time to time. Meters were installed at the identified points for measuring the quantity of water supplied.

3. According to the appellant, by proceedings dated 20.01.1997, the respondent Board revised the tariff structure and classified consumers under the categories of Domestic, Commercial and Industrial users. The grievance of the appellant was that the respondent Board treated the entire quantity of water supplied to it as industrial consumption and demanded charges at the tariff applicable to industrial users. Questioning the said classification and the consequential demand, the appellant approached this Court by filing W.P.No.18084 of 1998. This Court, while dealing with the said writ petition, took note of the appellant's contention that water supplied to its residential quarters and for drinking purposes could not be treated as industrial consumption and, by order dated 06.09.2005, referred the dispute relating to the proportion of domestic and non-domestic consumption and the

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consequential liability arising therefrom for adjudication through arbitration.

The said order was affirmed by the Division Bench in W.A.No.2198 of 2005 by judgment dated 19.01.2009.

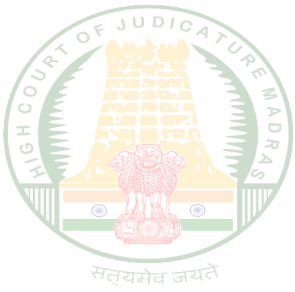
4. Pursuant to the aforesaid directions, the disputes between the parties were referred to arbitration. Upon consideration of the pleadings and materials placed before him, the learned Arbitrator passed an award dated 27.04.2013 holding that 90% of the water supplied to the appellant was utilised for domestic purposes and the remaining 10% for industrial purposes. The learned Arbitrator further held that with effect from 01.12.2002, the appellant would be liable to pay water charges under the category of “other beneficiaries” in terms of G.O.Ms.No.136 dated 03.10.2002.

5. Aggrieved by the award dated 27.04.2013, the appellant filed O.P.No.765 of 2013 under Section 34 of the Arbitration and Conciliation Act, 1996. The respondent Board also filed O.P.No.865 of 2013 challenging the said award. By the common order impugned in the present appeal, the learned Single Judge dismissed both Original Petitions holding that no case



had been made out for interference with the award under Section 34 of the

6. The learned Senior Counsel for the appellant submitted that the learned Arbitrator as well as the learned Single Judge failed to appreciate that the classification of beneficiaries ought to be based on the actual usage of water and not merely on the category assigned by the respondent Board. According to him, the water supplied to the appellant was predominantly utilised for domestic purposes and therefore the appellant could not have been classified under the category of “industrial or other beneficiaries”. He further submitted that the parties were governed by a subsisting agreement relating to the supply of water and tariff and, therefore, the respondent Board and the Government could not have unilaterally revised the tariff or altered the appellant's classification without issuing notice, calling for objections or considering the appellant's representations. The learned Senior Counsel contended that the subsequent classification of the appellant as an “other beneficiary” and the steep enhancement of tariff were arbitrary and violative of the principles of natural justice.

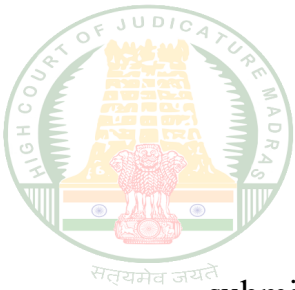


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7. The learned Senior Counsel further submitted that the subsequent classification of the appellant under the category of “other beneficiaries” was effected unilaterally and without notice. He submitted that the learned Arbitrator erred in holding that the appellant was liable to be charged industrial tariff with effect from 01.12.2002 and that the learned Single Judge failed to interfere with the said finding. According to him, the appellant's grievance was not against the power of the Government to alter the classification, but against the arbitrary exercise of such power. He submitted that, since the supply of water was governed by an agreement containing an arbitration clause, any dispute relating to tariff revision or change in classification was liable to be adjudicated through arbitration. The learned Senior Counsel further submitted that the findings rendered in W.P.No.18084 of 1998 and affirmed in W.A.No.2198 of 2005 were not properly considered by the learned Arbitrator and the learned Single Judge while upholding the Award. He also contended that Clause (C) of the Award is contrary to the terms of the agreement and unsustainable in law. He therefore prayed that the Award, as confirmed by the learned Single Judge, be set aside and the appeal be allowed.

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8. Per contra, learned counsel appearing for the respondent Board

submitted that the agreement between the parties expressly contemplated revision of tariff from time to time. According to the learned counsel, the learned Arbitrator determined the rights and liabilities of the parties on the basis of the applicable Government Orders and the terms of the agreement. The learned counsel further submitted that the learned Single Judge was justified in declining to interfere with the findings challenged by the appellant under the limited scope of Section 34 of the Arbitration and Conciliation Act, 1996. It was contended that no ground has been made out in the present appeal warranting interference with the order passed by the learned Single Judge. Hence, the learned counsel prayed for dismissal of the appeal.

9. We have carefully considered the rival submissions and perused the materials available on record.

10. It is not in dispute that the appellant and the respondent entered into an agreement dated 14.03.1991 for the supply of water to the appellant.

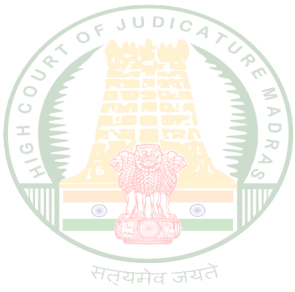


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Under the agreement, water was supplied to the Port area, including the residential quarters occupied by the appellant's employees. The appellant was liable to pay water charges at the rates specified in Schedule-B, subject to revision from time to time. It is also not in dispute that, by proceedings dated 20.01.1997, the respondent Board revised the tariff by classifying consumers as Domestic, Commercial and Industrial users. Since the respondent Board treated the entire quantity of water supplied to the appellant as industrial consumption, the appellant questioned the said classification by filing W.P.No.18084 of 1998 before this Court.

11. While disposing of the writ petition, this Court noticed the appellant's contention that a substantial portion of the water supplied by the respondent Board was utilised for the residential quarters occupied by its employees and for other domestic purposes and, therefore, the entire quantity of water supplied could not be treated as industrial consumption. Accordingly, this Court referred the dispute to arbitration for determining the proportion of domestic and non-domestic use of water and the liability of the appellant on that basis. The said order was affirmed by the Division Bench in W.A.No.2198 of 2005.

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12. Pursuant to the above directions, the learned Arbitrator considered the oral and documentary evidence adduced by both parties and also conducted a local inspection. On appreciation of the entire materials, the learned Arbitrator recorded a finding that about 90% of the water supplied to the appellant was utilised for domestic purposes and only 10% was utilised for industrial purposes.

13. After recording the above finding, the learned Arbitrator further held that, with effect from 01.12.2002, in view of G.O.Ms.No.136 dated 03.10.2002, the appellant would fall under the category of "Other Beneficiaries" and would be liable to pay water charges applicable to the said category.

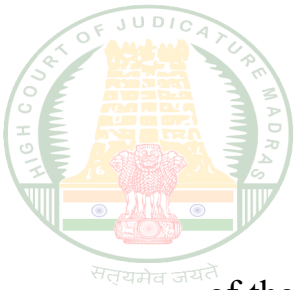
14. In our opinion, once the learned Arbitrator found that about 90% of the water supplied to the appellant was utilised for the residential quarters occupied by its employees and other domestic purposes, he ought to have considered the effect of the said finding while determining the appellant's



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liability from 01.12.2002 onwards. Though the learned Arbitrator relied upon G.O.Ms.No.136 dated 03.10.2002 and placed the appellant under the category of "Other Beneficiaries", the Award does not adequately explain why the finding regarding the domestic use of water was no longer relevant after the revised classification came into force. The Award also does not explain why the appellant's liability should be determined only on the basis of the revised classification despite the finding regarding the actual utilisation of water.

15. It is well settled that the scope of interference under Section 34 of the Arbitration and Conciliation Act, 1996, and consequently under Section 37 of the Act, is very limited. This Court cannot re-appreciate the evidence or substitute its own view for that of the learned Arbitrator merely because another view is possible. At the same time, where the Award suffers from patent illegality appearing on the face of the Award, or where the conclusions reached are not supported by the findings or the reasons recorded by the learned Arbitrator, the Court would be justified in exercising its jurisdiction under the Act.



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16. In the present case, the learned Arbitrator, on a proper appreciation

of the evidence, found that about 90% of the water supplied to the appellant was utilised for domestic purposes and only 10% was utilised for industrial purposes. However, the learned Arbitrator held that the appellant was liable to pay water charges under the category of "Other Beneficiaries" with effect from 01.12.2002, without assigning adequate reasons as to why the finding regarding the actual use of water was not taken into account while determining the appellant's liability, particularly when the water was admittedly utilised for the residential quarters and other domestic purposes. In the absence of such reasons, the conclusion reached by the learned Arbitrator is not fully supported by the findings recorded in the Award. The learned Single Judge has also failed to consider this vital finding regarding the actual use of water while dealing with the challenge to the Award.

17. We are, therefore, of the view that the above inconsistency goes to the root of the Award. To that extent, the Award suffers from patent illegality apparent on the face of the Award. The learned Single Judge, while exercising jurisdiction under Section 34 of the Act, did not examine this aspect and consequently declined to interfere with the Award. In our

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considered opinion, the impugned order, insofar as it confirms Clause (C) of the Award, cannot be sustained.

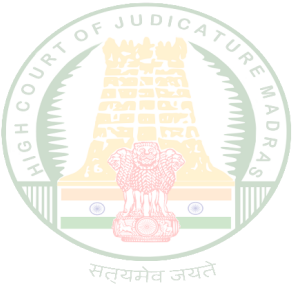
18. Accordingly, the Original Side Appeal is partly allowed. The common order dated 11.01.2019 passed in O.P.Nos.765 and 865 of 2013, insofar as it confirms Clause (C) of the Award dated 27.04.2013, is set aside. Consequently, Clause (C) of the Award passed by the learned Arbitral Tribunal is set aside. In all other respects, the Award passed by the learned Arbitral Tribunal in respect of Clauses (A), (B) and (D), and the common order of the learned Single Judge, are confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

[P.V.J.,] [K.G.T.J.,]
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Index:Yes
Speaking order
Internet:Yes
Neutral Citation:Yes

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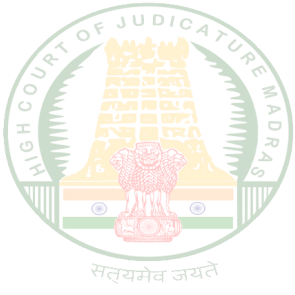
To

1.The Chairman,
M/s.Tuticorin Post Trust,
Tuticorin.

Now as;
M/s.V.O.Chidambaranar Port Trust,
Tuticorin - 628 004.

2.The Chairman,
Tamil Nadu Water Supply and
Drainage Board, Chepauk,
Chennai - 600 005.

3.The Sub Assistant Registrar,
(Original Side)
Madras High Court,
Chennai.



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P.VELMURUGAN. J.
and
K.GOVINDARAJAN THILAKAVADI, J.

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