

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD

No.2009/CE-I /CT/50

New Delhi, dated 12.02.2010

The Pr. CEs/CAO/Cs,
All Indian Railways

Sub: Application for setting aside Arbitral Award

A case has been brought to the notice of Railway Board where one of the Zonal Railways had filed objections in the Court of Law against an award published by the Arbitral Tribunal consisting of SAG Officers. The Hon'ble High Court has observed in this case that each and every finding including the factual findings reached by the Arbitral Tribunal had been challenged and deemed it appropriate to bring that case to the notice of Railway Board and further directed that a policy decision with regard to streamlining of filing of objections be framed by Railway Board.

The matter has been examined in Board and it is observed that the concerned Railway had failed to put up correct facts before the Hon'ble High Court. In terms of Section 34 of the "Arbitration and Conciliation Act 1996", there is a provision for making the Application to the Court for setting aside the arbitral award. The grounds for which the arbitral award can be turned down by the Court of law have also been elaborated therein.

It is also noted that the Railways are challenging the arbitral award on flimsy grounds in routine manner. Needless to say that the Arbitral Tribunals are appointed/constituted by the Railways themselves.

It is, therefore, advised that all concerned may go through the provisions of Section 34 carefully and recourse for striking down the arbitral awards may be undertaken only in terms of this section. Approaching the Court of Law for striking the arbitral award due to reasons not covered under the provisions of the Act should be avoided. Such action on the part of the administration not only defeats the very purpose of arbitration, but also results in unnecessary and protracted correspondence with the contractor.

It is further mentioned that Railway Board have not issued any other direction for filing of objections in the Court of Law against Arbitral Awards.

This disposes off Northern Railway's letter No. 74-W/1/1/365/WA/JAT/Doubling/Arb dated 11.12.2009, who may take suitable action to inform the Hon'ble High Court.

This issues in consultation with the Finance Directorate of the Ministry of Railways.

Please acknowledge receipt.



(T.GUPTA)

Exec. Director, Civil Engg.(G)
Railway Board