

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NOS. \_\_\_\_\_ OF 1996  
(Arising out of SLP © Nos. 8086-87 of 1006)

DGS&D & Others .....Appellants  
Versus  
U.P. Asbestos Ltd.  
.....Respondent

ORDER

Special Leave granted  
Heard Counsel on both sides.

The short grievance of the appellant is that while the court could have appointed an Arbitrator on the failure of the department to appoint one the court had to remain within the parameter of the Arbitration clause 24 which clearly states that the reference shall be made to the Sole Arbitration of an officer in the Ministry of Law. The Arbitrator appointed in the instant case is a retired judge. Whereas the Arbitration clause envisages the appointment of a person who is 'an officer' in the Ministry of Law, meaning thereby who is in service at the relevant point of time. This is also the purport of this court's decision in S.Rajan, State of Kerala (AIR 1992 S.C. 1918). We, therefore, set aside the order of the High Court appointing a retired Judge as Sole Arbitrator and Quash the appointment and direct that the High Court shall appoint an Arbitrator in terms of clause 24 of the Agreement. The appeal will stand disposed of accordingly with no order as to costs.

Sd/-  
.....CJI  
Sd/  
.....  
K.S.Paripoornar.....J

New Delhi  
July 12, 1996.