

IN THE HIGH COURT OF BOMBAY AT GOA

APPLN. FOR APPOINTMENT OF ARBITRATOR NO. 5 OF 2015

M/S. ENAS UNITED SERVICES.

... Applicant

Versus

THE FLAG OFFICER NAVAL AVIATION
AND 2 ORS.,

... Respondents

Mr. B. M. Khandeparkar, Advocate for the Applicants.
Mr. Mahesh Amonkar, Central Government Standing Counsel, for
the Respondents.

Coram:- F. M. REIS, J.

Date:- 21st September, 2015

P.C.

Heard Shri Khandeparkar, learned Counsel appearing for the Applicants and Shri Mahesh Amonkar, learned Central Government Standing Counsel appearing for the Respondents.

2. This is an application for appointment of Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996.

3. On perusal of the Agreement as rightly pointed out by Shri Mahesh Amonkar, learned Central Government Standing Counsel appearing for the Respondents, there is no subsisting Arbitration Clause which would permit this Court to appoint an Arbitrator in terms of Section 11(6) of the Arbitration and Conciliation Act, 1996. Merely reference to the Arbitration Act would not by itself come to

the conclusion that the parties have agreed to resolve their dispute by Arbitration. The Judgment of the Apex Court in the case of North Eastern Railway & Ors. vs. Tripple Engineering Works in Civil Appeal no. 6275 of 2014, relied upon by the learned Counsel appearing for the Applicants, is not applicable to the facts of the present case.

4. Keeping all the rights of the Applicant open, the above application for appointment of Arbitrator stands rejected.

F. M. REIS, J.

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