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IN THE HIGH COURT OF DELHI AT NEW DELHI

ARB.A. 12/2014 & IA 9478/2014

**WELL PROTECT MANPOWER
SERVICES (P) LTD**

..... Appellant

Through: Mr. Tarkeshwar Nath, Advocate.

versus

GB PANT HOSPITAL

..... Respondent

CORAM: JUSTICE S. MURALIDHAR

ORDER
06.04.2015

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1. This appeal under Section 37 of the Arbitration and Conciliation Act 1996 ('Act') is directed against the order dated 7th March 2014 passed by the sole Arbitrator deciding certain preliminary issues.

2. The background to the present appeal is that the Respondent Hospital awarded to the Appellant/Claimant a tender to provide security at the Hospital. The parties entered into an agreement dated 30th March 2003 for a period of one year beginning from 1st April 2003 and ending on 31st March 2004. The said agreement was kept extended for the subsequent years. The last agreement was executed on 30th March 2006. It was for a period ending on 31st March 2007. It is not in dispute that the period was extended for

another two months till 31st May 2007. A legal notice was issued by the Appellant to the Respondent on 17th January 2008 claiming a sum of Rs. 8,04,837 along with interest 18% pa from April 2004 to May 2007. Thereafter the Appellant filed Arbitration Petition No. 118 of 2011 under Section 11(6) of the Act in which an order was passed by this Court on 24th November 2011 appointing a sole Arbitrator.

3. Based on the pleadings, the following two preliminary issues were framed by the sole Arbitrator by an order dated 27th September 2013:

“(i) Whether the claim filed by the Claimant is barred by limitation?

(ii) Whether the Arbitral Tribunal has the jurisdiction to award claims made by the Claimant in relation to the agreement executed between the parties, other than agreement dated 30/03/2006?”

4. By the impugned order dated 7th March 2014, the learned sole Arbitrator held that the claim of the Appellant could be divided into two periods: one for the period 2004-2005 and the second for the period 2005-2006. It was held that the claims as far as they related to the agreement dated 30th March 2006 were not barred by limitation. The sole Arbitrator further held that the

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scope of the reference was confined to the claim relating to the agreement dated 30th March 2006 and not to the earlier agreements.

5. The Appellant is aggrieved by the above order to the extent that the learned Arbitrator has confined the scope of the proceedings to the disputes arising out of the agreement dated 30th March 2006. Mr. Tarkeshwar Nath, learned counsel for the Appellant, took the Court through the Arb.P. No. 118 of 2011 filed by the Appellant and pointed out that in para 7.9 thereof the Appellant had set out the details of the various claims of arrears made for different periods which included the period prior to agreement dated 30th March 2006.

6. The Court has perused the said petition. It is seen that while the computation of the sum of Rs. 8,04,837 as set out in the petition does include the amounts pertaining to the period prior to April 2006, in para 7.13 the Petitioner has itself stated "that the cause of action firstly arose on 30.03.2006 when the respondent entered into an agreement with the petitioner for a period of one year". Merely because the valuation of the petition has been indicated as the claim amount it would not mean that the scope of reference of the disputes to arbitration included claims pertaining to

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the agreements entered into between the parties prior to the one entered on 30th March 2006. The view taken by the learned Arbitrator therefore appears to be plausible and does not call for interference.

7. If the scope of reference is confined to agreement dated 30th March 2006 then the further finding of the learned Arbitrator that he was not called upon to decide the issue of limitation vis-a-vis the claims arising under the earlier agreements also cannot be faulted with.

8. There are no grounds made out for interference in the impugned order.

9. The appeal is dismissed.



S. MURALIDHAR, J

APRIL 06, 2015
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