

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.5002 of 2009 (O&M)

Date of Decision.24.08.2016

Vijay Kumar

.....Appellant

Vs.

Haryana State and another

.....Respondents

Present: Mr. Mukund Gupta, Advocate
for the appellant.

Mr. Manoj Dhankar, AAG, Haryana
for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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AMIT RAWAL J. (ORAL)

C.M. No.16694-CII of 2016

The prayer in the application is for listing the appeal for actual date of hearing, which is already on the regular board. Mr. Mukund Gupta, learned counsel for the applicant-appellant submits that the controversy involved in the matter is very short.

Notice in the application.

Mr. Manoj Dhankar, AAG, Haryana accepts notice.

For the reasons stated in the application, the application is allowed and with the consent of both parties, the matter is taken up for disposal today itself.

FAO No.5002 of 2009

The counsel for the appellant submits that in view of the

dispute between the contractor and State of Haryana, the matter was referred

to the Arbitrator and the Arbitrator vide Award dated 22/24.01.2002, partly allowed the claim of the appellant-claimant. Against the aforementioned Award, both the parties i.e. State of Haryana and the claimant filed objections. Both objections were dismissed and the appellant-State approached this Court in FAO No.208 of 2006 and vide order dated 08.03.2006, the matter was remanded back to the Arbitrator to decide the controversy afresh. The Arbitrator vide Award dated 27.06.2007 allowed the claim. The State of Haryana filed the objection and the same has been allowed and the matter has been remitted back to the Arbitrator.

Mr. Mukund Gupta, learned counsel for the appellant submits that the Objecting Court cannot remand the matter back unless and until the claims of either party remained unaddressed and relies upon judgment of Bombay High Court in *Geojit Financial Services Limited Vs. Kritika Nagpal* in Appeal No.35 of 2013 decided on 25.06.2013.

He further submits that the Arbitrator has not referred to the examination and the statement of parties. In fact, according to the Objecting Court, the Award was not reasoned one. He submits that even if it was so, the Objecting Court could not have remitted back the matter to the Arbitrator. At the best, it could have either dismiss the objection or allow the same but not in the mode and manner as indicated above.

Mr. Manoj Dhankar, AAG, Haryana appearing for the respondents submits that once the Award is not in consonance with the provisions of Section 31 of the Arbitration and Conciliation Act, the course adopted by the Objecting Court is legal and justified and called for interference. There is little scope in appeal *viz-a-viz* the application of mind being applied by the Objecting Court, particularly, when the objections

were falling within the realm of Section 34 of 1996 Act.

I have heard learned counsel for the parties and appraised the paper book. I am of the view that as per of finding rendered by the Division Bench of Bombay High Court in **Geojit Financial Services Limited**'s case (supra), the Objecting Court can only remand back the matter to Arbitrator when provisions of Section 34 of the 1996 Act are not applicable, in essence, claims of one of the parties is not decided but not in the mode and manner as has been done in this case. In fact, if the Objecting Court was of the opinion that there was need of indulgence, it could have either to accept the Award or reject it and not by way of remand.

In view of the aforementioned fact, I am of the view that the order under challenge is liable to set aside and the matter is remitted back to the Objecting Court to decide the objections afresh, keeping in view the observations made hereinabove.

The parties are directed to appear before the Objecting Court on 15.09.2016 and this Court is sanguine of the fact that the objections have to be decided within a period of four months from the date of receipt of certified copy of this order. The record is also directed to be sent to the Objecting Court for adjudication of the objections.

The appeal is disposed of on the above terms.

(AMIT RAWAL)
JUDGE

August 24, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No