

Rakesh Kumar Jain, J. (Oral)

respondents have asked the petitioner to pay it on the basis of Deputy Commissioner (DC) rates w.e.f. 12.11.2014. The petitioner is, thus, paying the charges to its employees on the basis of DC rates which includes the Employees Provident Fund and Employees State Insurance fund etc..

It is submitted by counsel for the petitioner that the DC rates are much higher than the ALC rates. The grievance of the petitioner is that it is being paid the administrative charges @ 2% on the basis of ALC rates instead of DC rates though it is paying charges to its employees on the basis of DC rates.

Counsel for the petitioner has been very fair in submitting that Clause 32 of the service agreement deals with the Alternate Disputes Resolution Mechanism, as per which in case of non-settlement of any dispute amicably, the same shall be referred to the sole arbitrator i.e. the Secretary Health, Chandigarh Administration. It is submitted by counsel for the petitioner that since the issue in respect of payment of 2% administrative charges is not a part of the service agreement, therefore, it would not be in a position to take this matter to the arbitrator.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that the payment of 2% administrative charges to be made by the respondents to the petitioner, whether on the basis of ALC rates or DC rates, flows from the service agreement itself, therefore, the petitioner shall have to take this matter to the sole arbitrator for the purpose of its adjudication on the basis of evidence to be led before him.

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In view thereof, the present petition is disposed of with a direction that in case the petitioner raises an arbitral dispute in terms of Clause 32 of the service agreement, the same shall be considered and decided by the sole arbitrator as early as possible, in accordance with law.

October 03, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No