

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

ARB-88-2017 (O&M)

Date of decision:- 06.10.2017

Rajinder Singh Contractor

...Petitioner

Versus

Military Engineering Services (M.E.S.), Delhi and
others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE

Present:- Mr. Vivek Khatri, Advocate,
for the petitioner.

Mr. Ashish Aggarwal, Advocate,
for the respondents.

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S.J. VAZIFDAR, C.J. (ORAL)

CM-14873-CII-2017

Leave is granted to place on record the copy of the final contract bill, no claim certificate and bank transfer statement (Annexure R/1) and a copy of the letter dated 14.02.2017 (Annexure R/2) filed on behalf of respondent No. 4 and the application is allowed subject to all just exceptions.

ARB-88-2017

This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short the Act) for the appointment of an arbitrator.

2. The parties had admittedly entered into a contract which contains an arbitration agreement. The only defence is that the claim is barred on account of the petitioner having received amounts under a final bill and having stated that the

same was in full and final satisfaction of his claims. A

separate no due certificate was also executed on the same day, namely, 07.10.2014. However, the last sentence thereof stated that the petitioner reserved his right to raise a claim to the extent disallowed in the final bill.

3. The respondents also place reliance on clause 65 of the terms and conditions which states that after the submission of the final bills, the petitioner is not entitled to raise any further claims. However, whether this clause applies when amounts are deducted from the final bill is an issue which also requires consideration. The interpretation of clause 65 falls within the jurisdiction of the arbitrator. In view of the amendment to the Act, the disputes cannot be referred to a serving officer of the respondents.

4. The petition is, therefore, disposed of by appointing Mr. Justice A.L. Bahri, former Judge of this Court, as the sole arbitrator. The fees shall be as per the Chandigarh Arbitration Centre (CAC) (Administrative Cost and Arbitrators' Fees) Rules, 2014.

(S.J. VAZIFDAR)
CHIEF JUSTICE

06.10.2017

Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No