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

**CR No.4540 of 2016(O&M)
Date of Decision: 02.07.2018**

Bagial Cooperative Labour and Construction Society Ltd.

.....Petitioner

Vs

Punjab Mandi Board and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sushil Saini, Advocate
for the petitioner.

Mr. D.S. Jandiala, Advocate
for respondent No.1.

Mr. V.M. Handa, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner/Society has challenged the order dated 30.04.2016 passed by Additional District Judge, Gurdaspur, whereby application filed by the Arbitrator for payment of arbitration fee to the tune of Rs.1,90,000/- on account of 19 effective hearings was allowed as per Punjab and Haryana (Arbitrator's Penal and Fees), Rule 2011 to be shared by the petitioner and respondent No.1 in equal proportion.

[2]. Arbitrator was appointed on 08.05.2009. The ex parte

award was passed by the Arbitrator on 27.07.2009. The objections under Section 34 of the Arbitration and Conciliation Act 1996 filed by Punjab Mandi Board/respondent No.1 were dismissed by the Additional District Judge, Gurdaspur, against which FAO No.2822 of 2012 was filed in the High Court. Co-ordinate Bench vide order dated 16.12.2013, accepted the appeal and the parties were directed to appear before the Arbitrator on 15.01.2014. Thereafter, parties appeared before the Arbitrator and the Arbitrator passed fresh award on 18.02.2015. The claim of the petitioner was rejected.

[3]. Petitioner has already filed objections against the aforesaid award which are statedly pending. During currency of earlier proceedings which ultimately culminated in passing of ex parte award, Punjab and Haryana (Arbitrator's Penal and Fees) Rules 2011 were applicable. The amount of Rs.1,90,000/- was worked out for 19 effective hearings. During the proceedings, Rules were amended in the year 2014, wherein fee to the tune of Rs.35,000/- is payable upto an amount of Rs.5 lacs and for an amount above Rs.5 lacs upto 20 lacs, fee of Rs.35,000/- along with 3.5 % interest of the claim amount over and above Rs.5 lacs is payable.

[4]. The contention of learned counsel for the petitioner is that Rules of 2014 should have been adhered to while

computing payable amount to the Arbitrator towards arbitration fee.

[5]. As against this, learned counsel for the Arbitrator has vehemently submitted that after dismissal of FAO No.2822 of 2012 on 16.12.2013, parties were directed to appear before the Arbitrator and in fact, they had appeared on 15.01.2014 before enforcement of Rules 2014 which came into being in April 2014, therefore, any amendment made in the Rules would take effect prospectively. All amendments are to be given prospective effect and unless and until it is specifically recited in the Amendment Rules, the same will relate back with retrospective. Learned counsel has also pointed out that the share of Punjab Mandi Board has already been answered by the Board by paying 50% of the amount i.e. Rs.95,000/- which has been duly credited in favour of the Arbitrator.

[6]. From the pleadings and material on record, it appears that for the proceedings undertaken by the Arbitrator before passing of ex parte award, payment of fee has already been made by the parties. It is only during currency of proceedings after remand to the Arbitrator, 19 effective hearings were provided to the parties. It is only the Rules of 2011 would answer the claim of the Arbitrator in respect of calculation of fee of 19 hearings.

[7]. Having considered the controversy, I am of the view that amount calculated by the Additional District Judge vide the impugned order cannot be faulted with. This revision petition is accordingly dismissed.

July 02, 2018
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(RAJ MOHAN SINGH)
JUDGE

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