

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

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**FAO No.137 of 2018 (O&M)
Date of Decision : 11.01.2018**

M/s TDS Management Consultant Pvt. Ltd.

..... Appellant

Versus

Postgraduate Institute of Medical Education &
Research, Chandigarh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Vinish Singla, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the order dated 02.01.2018 passed by the Additional District Judge, Chandigarh whereby it has dismissed the application under Section 9 of the Arbitration and Conciliation Act, 1996 (for short the Act).

It is the case of the appellant that at one stage the PGIMER had agreed to reimburse the bonus which was paid to the employees but later on it denied the same. The appellant has moved an application under Section 11 of the Act which is pending before Hon'ble the Chief Justice for 19.01.2018. It was in these circumstances that he had moved the instant application under Section 9 of the Act praying that the respondent-PGIMER be restrained from encashing its bank guarantee to make the payment of the bonus and the same was illegally declined by the Court below.

In my opinion, this application under Section 9 of the Act is not maintainable in the present form. It is not a situation where there is any dispute about the payment rather it is admitted that the bonus has to be paid to the employees and the only dispute is whether it is the appellant who has to pay it or the respondent-PGIMER, Chandigarh who has to pay it. Once payment for a previous year has already been made by the appellant and that is the dispute which has to be decided, any payment which is now made would also obviously be subject to the decision of that dispute. If this appeal is allowed, it would not affect the respondent-PGIMER, Chandigarh but would affect those employees who even as per the appellant are entitled for the payments.

Consequently, I find no error in the impugned order and reject the appeal.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

11.01.2018
pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No