

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

FAO-4199-2013 (O&M)

Date of decision: 22.05.2019

Jarnail Singh

...Appellant

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Shrey Goel, Advocate, for
Mr. J.K. Goel, Advocate,
for the appellant.

Mr. Nitin Kumar, Advocate,
for respondent Nos. 1 & 2.

JAISHREE THAKUR, J. (ORAL)

This is an appeal that has been filed under Section 37 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as 'the Act') seeking to challenge the order dated 22.03.2013 passed by the Addl. District Judge, Bathinda whereby the objections filed under Section 34 of the Act by the appellant against the award of the Arbitrator stood dismissed.

In brief the facts giving rise to this appeal are that there was an contract awarded by the respondents to the appellant herein for supplying and stacking of 65 mm gauge machine crushed 6400 cubic meters of stone ballast as per RDSO specification at Lehra Mohabbat Station, in Railway

Boundary and inside GHTP Complex, Lehra Mohabbat. The contract was to be completed by 10.08.2000. However, as the contract could not be completed within the specified time, a dispute arose between the parties which led to the appointment of an Arbitrator. The Arbitrator by his award dated 06.02.2007 and further by his corrected award dated 06.02.2008 held that the appellant Contractor had not completed the work assigned to him and held him liable to pay a sum of ₹ 1,97,973/- on account of the work having been completed at his risk and cost along with interest @ 18% per annum.

The award was challenged before the Addl. District Judge, Bathinda, who dismissed the objections being devoid of merit vide the impugned order dated 22.03.2013. Aggrieved, the instant appeal has been filed.

The primary thrust of the argument before this Court was that the term of the agreement/ contract could not be complied with on account of the fact that the area where ballast stone was to be supplied was not clear of trees, which fact had been ignored by the Arbitrator, however, at the same time it was contended that the appellant would be ready to settle the principal amount as awarded by the Arbitrator with a reduced rate of interest the interest as the interest of 18% per annum as levied by the Arbitrator was highly excessive. It was contended that the principal amount would be cleared @ 9% per annum from the date of the award.

On the offer having been made by the appellant, the same was put to the counsel appearing on behalf of the respondents whether the respondents herein would be willing to accept the principal amount along

with reduced rate of interest.

Learned counsel for the respondents sought an adjournment to obtain necessary instructions and have today placed a communication dated 09.05.2019 on the record stating that the respondents have agreed to the proposal of the appellant and would be willing to accept the principal amount as awarded by the Arbitrator along with interest @ 9% per annum from the date of award. The communication is taken on the record as mark 'A'.

In view of the fact that the offer has been accepted, the instant appeal is allowed to the extent that the appellant would deposit the principal amount along with interest @ 9% per annum from the date of the award till deposit within a period of three months, failing which the respondents would be at liberty to proceed with the execution on the terms that have been specified by the Arbitrator.

The appeal stands allowed to that extent.

22.05.2019

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.