

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

**CR-7367-2019 (O&M)
Date of decision: 20.11.2019**

Sanjeev Kumar Singla

...Petitioner

Versus

H.D.F.C. Bank Ltd. and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. H.S. Jalal, Advocate,
for the petitioner.

Ritu Bahri, J.

Challenge is to the order dated 05.10.2019 (Annexure P-4) passed by the Arbitrator, whereby application filed by the petitioner cross-examine the witnesses produced by claimant-respondents, has been dismissed.

Learned counsel for the petitioner refers to the judgment passed by this Court in **HMT Limited Tractor Division vs. M/s Modern Manufacturers Pvt. Ltd. and others**, 2017 (4) Law Herald 3581, to contend that when the arbitration proceedings are at the initial stage, the Arbitrator is bound to follow the principles of natural justice and fair-play and opportunity of cross-examination ought to have been given to the petitioner. In the above judgment, reference was made to a judgment passed by Hon'ble the Supreme Court in **M/s. Bareilly Electricity Supply Co. Ltd. Vs. The Workmen and others**, AIR 1972 SC 330, wherein it was observed as under:-

“7. In case of **M/s. Bareilly Electricity Supply Co. Ltd. Vs. The Workmen and others**’ AIR 1972 SC 330, the Supreme

Court while dealing with identical provisions under the provisions of Industrial Dispute Act in paragraph (14) of the said Judgment held as under :-

“14. But the application of principle of natural justice does not imply that what is not evidence can be acted upon. On the other hand what it means is that no materials can be relied upon to establish a contested fact which are not spoken to by persons who are competent to speak about them and are subjected to cross-examination by the party against whom they are sought to be used. When a document is produced in a Court or a Tribunal the questions that naturally arise is, is it a genuine document, what are its contents and are the statements contained therein true. When the Appellant produced the balance-sheet and profit and loss account of the Company, it does not by its mere production amount to a proof of it or of the truth of the entries therein. If these entries are challenged the Appellant must prove each of such entries by producing the books and speaking from the entries made therein. If a letter or other document is produced to establish some fact which is relevant to the enquiry the writer must be produced or his affidavit in respect thereof be filed and opportunity afforded to the opposite party who challenges this fact. This is both in accord with principles of natural justice as also according to the procedure under Order XIX Civil Procedure Code and the Evidence Act both of which incorporate these general principles. Even if all kwm ARBP363.11 technicalities of the Evidence Act are not strictly applicable except in so far as Section 11 of the Industrial Disputes Act 1947 and the rules prescribed therein permit it, it is inconceivable that the Tribunal can act on what is not evidence such as hearsay, nor can it justify the Tribunal in basing its award on copies of documents when the originals which are in existence are not produced and proved by one of the methods either by affidavit or by witnesses who have executed them, if they are alive and can be produced. Again if a party wants an inspection, it is incumbent on the Tribunal to give inspection in so far as that is relevant to the enquiry. The applicability of these principles are well recognised and admit of no doubt.”

Ratio of the above judgment is directly applicable to the facts of

the present case.

Keeping in view the judgment passed in **HMT Limited Tractor Division** (supra), the impugned order dated 05.10.2019 (Annexure P-4) is set aside and a direction is given to the Arbitrator to provide two effective opportunities to the petitioner to cross-examine the witnesses of claimant-respondents and thereafter, proceed in accordance with law.

Allowed accordingly.

20.11.2019
ajp

(RITU BAHRI)
JUDGE

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