

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

115 - ARB No.151 of 2020 (O&M)

Date of Decision: 25.09.2020

M/s Xtra Freight Forwarder

... Petitioner

VS.

General Manager, Northern Railway & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Mayur Karkra, Advocate for the petitioner

GIRISH AGNIHOTRI, J. (Oral)

(1) The petitioner-M/s Xtra Freight Forwarder has filed the present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') (as amended) for appointment of Sole Arbitrator under Agreement dated 19.12.2018.

(2) Learned counsel for the petitioner based on pleadings in the petition submits that the respondent Department published a tender regarding leasing of 4 tonnes Parcel Space in Brakevans (FSLR-IIInd Compartment) by Train No.12312 from Kalka to Howrah Express. The petitioner participated and its offer was accepted vide letter of acceptance dated 10.12.2018 (A1). The petitioner complied with procedural formalities and deposited security of Rs.20,97,509/- and thereafter entered into an agreement dated 19.12.2018 (A4) vide which lease was allotted for a period of 5 years. Eventually, a show cause notice was issued on 14.11.2019 intimating three overloading at Howrah Railway Station to which the petitioner gave reply on 09.11.2019. Meanwhile, the petitioner on 18.11.2019 intimated to surrender the lease due to financial loss and low goods traffic. On 12.12.2019, the petitioner intimated the respondents to withdraw the lease surrender letter dated

02.12.2019 alleging 13 overloading by the petitioner which were duly refuted by the petitioner vide letter dated 12.12.2019. The petitioner also requested the respondents to appoint Sole Arbitrator in terms of Clause 26.4 of the agreement (A4). The petitioner then issued Arbitration Invocation Notice dated 06.01.2020 to adjudicate the dispute of overloading. Resultantly, the respondents issued Cancellation of Registration letter dated 06.03.2020 (A16) terminating all the leasing contracts with Northern Railways and forfeited all the security deposits and registration fee, cancellation of registration and debarment for 5 years. Therefore, the petitioner has invoked Section 11(6) of the Act seeking appointment of the Arbitrator.

(3) Notice of motion.

(4) On asking of the Court, Mr. Karminder Singh, Advocate, who is appearing through video conferencing, accepts notice on behalf of respondents. He, on instructions, submits that he has no objection in case an Arbitrator from the Panel of Arbitrators is appointed.

(5) After hearing learned counsel for the parties, Justice Dr. Bharat Bhushan Parsoon (Retd.), a former Judge of this Court, is appointed as the Sole Arbitrator. However, such appointment would be subject to the declaration to be made by Justice Dr. Bharat Bhushan Parsoon, under Section 12 of the Act; with regard to his independence and impartiality to settle the disputes between the parties.

(6) The Arbitrator is requested to complete the proceedings within the time limit specified under Section 29A of the Act.

(7) The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended or as may be mutually settled by the parties and the Arbitrator.

(8) A copy of the order be forwarded to Justice Dr. Bharat Bhushan Parsoon at the given address:-

154, Sector 35A
Chandigarh
M. No.8558809906
Landline No.0172-4666606

(9) After seeking the convenience of the Arbitrator, the parties are directed to appear before him (through video conferencing, if suitable) within one month from the date of receipt of a certified copy of this order.

(10) The matter is disposed of in the above terms.

25.09.2020
Vvishal

(Girish Agnihotri)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No