

107+241

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

ARB No. 252 of 2018 (O&M)
Date of Decision: 22.09.2022

Dubeshwar Pandit

-Petitioner

Versus

Superintending Engineer and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr. Virish Dahiya, Advocate, for
Mr. Deepak Balyan, Advocate,
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

CM-3194-CII-2020

For the reasons mentioned in the application, the same is allowed and the accompanying documents are taken on record, subject to all just exceptions.

Main case

This is an application under Section 11 (6, 7, 8) of Arbitration and Conciliation Act, 1996 for appointment of an independent/sole arbitrator to adjudicate the claim of the applicant-petitioner which is tentatively valued at Rs.2,42,000/- for the work done along with interest.

In compliance of order dated 06.09.2022, the petitioner has placed on record copy of original agreement.

Perusal of Clause 5(a) of the agreement would show that the contractor was under legal obligation to deliver in the office of the Executive Engineer on or before 10th day of every month during the continuation of the work covered by the contract, a return showing details of any work claimed for as extra, and such return shall also contain the value of such work as claimed by the contractor.

Learned counsel for the petitioner seeks to explain the aforesaid Clause 5(a) with reference to Clause 12 to contend that Engineer-in-charge shall have the power to make any alteration or omissions or additions from the original specification drawings, designs and instructions that may appear to him to be necessary or advisable during the progress of the work and the contractor shall be bound to carry out the work in accordance with the instructions given to him in writing duly signed by the Engineer-in-charge and such alterations, omissions, additions or substitution shall not invalidate the contract. For the original work done by the petitioner, petitioner has already been paid. Petitioner claims his dues in respect of extra work done by the petitioner even after completion of original work.

In view of Clause 12, there is no order/permission on record in respect of instructions given by the contractor in writing duly signed by the Engineer-in-charge, endorsing the extra work undertaken by the petitioner. The claim of the petitioner appears to be beyond the arbitration clause. Petitioner has not submitted any details of the extra work to the competent authority in continuation of the work already covered by the contractor in view of Clause 5(a) of the agreement.

The claim of the petitioner being beyond the scope of arbitration clause cannot be entertained.

Dismissed.

22.09.2022

Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

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