

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

**FAO-4694-2017 (O&M)
Date of Decision: 10.08.2022**

**KIRANJIT KAUR THROUGH HER POWER OF ATTORNEY
AMAR SINGH**

..... Appellant(s)

Versus

INDIAN OIL CORPORATION LTD. AND OTHERS

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gulzar Mohammad, Advocate
for the appellant.

LISA GILL, J.

This appeal has been filed by the appellant challenging order dated 25.11.2016, passed by learned Additional District Judge, Chandigarh, whereby the petition under Section 34 of the Arbitration and Conciliation Act, 1996 (for short – ‘the Arbitration Act’), filed by the appellant has been dismissed as well as for setting aside award dated 01.06.2015, passed by the learned Arbitrator.

Brief facts necessary for adjudication of the matter in this appeal filed by the appellant through her power of attorney holder and father are that the respondents invited applications for retail outlet (RO) (Petrol Pump Dealership) location at Sector 44, Chandigarh under S.C. category vide advertisement dated 04.09.2009. In response thereto appellant submitted her application for allotment of the retail outlet on 06.10.2009. Letter of intent dated 26.08.2010 was issued to the appellant and she was

appointed as the dealer vide communication dated 03.09.2010 for the said location as per terms and conditions contained in the agreement. Appellant was directed to send three copies of agreement, after signing the same being sole proprietor of M/s. Chandigarh Filling Station at Sector 44, Chandigarh. Complaint was received challenging appellant's selection on the ground that she had submitted a false experience certificate from M/s. Jashan Filling, Tohra and M/s. B.J. Singh Filling Station, Jethuke and secondly she had not discontinued her practice being enrolled with the Bar Council of the Punjab and Haryana. Notice for termination of the dealership was issued to the appellant and after considering her reply etc., dealership was cancelled on 13.10.2014.

Sole Arbitrator was appointed for resolution of the dispute, in terms of the arbitration clause in the agreement. Learned Arbitrator vide award dated 01.06.2015 while holding that there is no infirmity in the decision of the respondents in terminating the dealership, however, awarded a lump-sum compensation of Rs.3,00,000/- (three lakhs) to the appellant while observing that a period of three years and three months was taken in taking a decision thereby causing prejudice to the appellant. Respondents it is noted, issued show cause notice to the claimant on 19.05.2011, which was duly replied to on 03.06.2011 with the dealership being terminated on 13.10.2014. It is specifically observed that during the period, to which experience certificate submitted by the appellant pertained to, the appellant was enrolled as an advocate and was practising as such at that time. Application for surrender/suspension of license submitted on 27.08.2010 was accepted vide notification dated 14.10.2010. Therefore, the experience certificate submitted by the appellant along with her application seeking

dealership, it is observed, did not confer eligibility upon her. Claimant was prevented from taking a suitable job or carrying on with her work and she had also surrendered her license in the month of October, 2010 with the hope of getting back the dealership, therefore, compensation was awarded. Aggrieved therefrom application under Section 34 of the Arbitration Act was filed by the appellant, which has been dismissed by the learned Additional District Judge, Chandigarh, vide order dated 25.11.2016. Appellant being aggrieved therefrom has preferred the present appeal.

Learned counsel for the appellant vehemently argues that no fault can be found with the experience certificates as they were duly verified by officials of the respondents. Therefore, the experience certificates were not false. Moreover, appellant had submitted an application dated 27.08.2010 for suspension of her license prior to issuance of letter of intent dated 26.10.2010, therefore, it is prayed that this appeal be allowed and impugned judgment dated 25.11.2016 be set aside and application under Section 34 of the Arbitration Act for setting aside the arbitral award dated 01.06.2015 be allowed.

It is a matter of record that the appellant was a practising lawyer enrolled with the Bar Council of Punjab and Haryana at the time of submission of her application for retail outlet (petrol pump dealership) on 06.10.2009. Experience certificates, which were appended alongwith the application were admittedly of the period when the appellant's license was in currency. Furthermore, learned counsel for the appellant is unable to deny that it has come on record that the appellant was practising as a lawyer during the period for which experience certificate has been granted to her. Argument raised by learned counsel for the appellant is that appellant's

signatures on various power of attorney's along with another advocate are of no consequence as the appellant was not getting any remuneration for those cases. This argument is devoid of any merit as the question of remuneration is of no consequence keeping in view the fact that the appellant was admittedly enrolled as an advocate at the relevant time of issuance of experience certificates in question and it is a matter of record that she was admittedly appearing in different cases with her signatures found on the power of attorneys. It is clear that the appellant was dealing with matters in her capacity as an advocate, therefore, there is no question of experience certificates being issued to her as manager at the two petrol pumps in question.

Learned counsel for the appellant is unable to point out as to how the award in question is against public policy as has been sought to be urged. Application for suspension of the license was admittedly filed by the appellant after submission of the application though prior to the issuance of letter of intent but definitely after the issuance of experience certificates. Question of prejudice being caused to the appellant due to suspension of her licence and her not being able to take up any vocation for a long period has been adequately taken care of by the learned Arbitrator while awarding damages to the tune of Rs.3,00,000/- to the appellant.

It is settled position of law that scope of interference in an arbitral award is limited as the Court does not sit in appeal over the award. The Hon'ble Supreme Court in ***NTPC Ltd. Vs. M/s. Deconar Services Pvt. Ltd., 2021 (SCC) 2588*** has observed as under:-

11. Before proceeding further, it is necessary to make note of the scope of interference by Courts in arbitral awards passed

*under the Arbitration Act, 1940. This Court has consistently held that the Court does not sit in appeal over an award passed by an arbitrator. In **Kwality Manufacturing Corporation v. Central Warehousing Corporation, (2009) 5 SCC 142** this Court held as follows:*

“10. At the outset, it should be noted that the scope of interference by courts in regard to arbitral awards is limited. A court considering an application under Section 30 or 33 of the Act, does not sit in appeal over the findings and decision of the arbitrator. Nor can it reassess or reappreciate evidence or examine the sufficiency or otherwise of the evidence. The award of the arbitrator is final and the only grounds on which it can be challenged are those mentioned in Sections 30 and 33 of the Act. Therefore, on the contentions urged, the only question that arose for consideration before the High Court was, whether there was any error apparent on the face of the award and whether the arbitrator misconducted himself or the proceedings.” (emphasis supplied)

*12. Further, it is also a settled proposition that where the arbitrator has taken a possible view, although a different view may be possible on the same evidence, the Court would not interfere with the award. This Court in **Arosan Enterprises Ltd. v. Union of India, (1999) 9 SCC 449** held as follows:*

“36. Be it noted that by reason of a long catena of cases, it is now a well-settled principle of law that reappraisal of evidence by the court is not permissible and as a matter of fact exercise of power by the court to reappraise the evidence is unknown to proceedings under Section 30 of the Arbitration Act. In the event of there being no reasons in the award, question of interference of the court would not arise at all. In the event, however, there are reasons, the interference would still be not available within the jurisdiction of the court unless of course, there exist a total perversity in the award or the judgment is based on a wrong proposition of law. In the event however two views are possible on a question of law as well, the court would not be justified in interfering with the award.

37. The common phraseology “error apparent on the face of the record” does not itself, however, mean and imply closer scrutiny of the merits of

documents and materials on record. The court as a matter of fact, cannot substitute its evaluation and come to the conclusion that the arbitrator had acted contrary to the bargain between the parties. If the view of the arbitrator is a possible view the award or the reasoning contained therein cannot be examined...”

13. From the above pronouncements, and from a catena of other judgments of this Court, it is clear that for the objector/appellant in order to succeed in their challenge against an arbitral award, they must show that the award of the arbitrator suffered from perversity or an error of law or that the arbitrator has otherwise misconducted himself. Merely showing that there is another reasonable interpretation or possible view on the basis of the material on the record is insufficient to allow for the interference by the Court.

In the given factual matrix, learned Additional District Judge, Chandigarh has correctly declined to interfere in the matter. Learned counsel for the appellant has failed to make out a case for setting aside order dated 25.11.2016, passed by learned Additional District Judge, Chandigarh, consequently setting aside award dated 01.06.2015, passed by the learned Arbitrator.

No other argument has been addressed.

There is no ground whatsoever, which calls for interference in this appeal. Appeal is accordingly dismissed with no order as to costs. Pending applications, if any, are disposed of accordingly.

10.08.2022

Sunil

**(LISA GILL)
JUDGE**

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