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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 23.02.2022***

+ ARB.P. 1191/2021

SANDEEP KUMAR JHA Petitioner
Through: Advocate (appearance not given)

Versus

M/S FIITJEE LTD. Respondent
Through: Mr. Raaj Malhotra & Mr. J. Karan
Malhtra, Advocates

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (oral)

1. The present petition has been filed by the petitioner under Section 11 (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of Arbitrator for adjudication of disputes with respondent.
2. Petitioner claims to be holding degree in B.Sc (Hons) and M.Sc. in Physics and carrying ample experience in teaching and imparting education to students who have been preparing for competitive entrance examinations for engineering and medical course after completing their senior secondary school. According to petitioner, respondent is a limited company incorporated under the provisions of Companies Act, 1956 and engaged in

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training the students for competitive exams such as IIT-JEE, various Olympiads, school exams and board exams etc.

3. Petitioner claims that vide appointment letter dated 04.12.2009, respondent employed the petitioner at the post of “Professor A2” in Physics Department for imparting education to the students. The appointment letter contained the Service Rules for the Employees dated 04.12.2009, Code of conduct for Employees of FIITJEE and Pay, Allowances & Perquisites Policy of FIITJEE Members and Clause- 36(a) thereof contained that any dispute between the parties shall be referred to arbitration. Petitioner joined the services of the respondent on 21.10.2010 on probation basis.

4. Petitioner further claims that he worked with utmost commitment and diligence and respondent after seeing the hard work and dedication of the petitioner vide letter dated 19.07.2013 revised the salary of petitioner w.e.f. 16.07.2013. Thereafter, petitioner was appointed as the Acting Head of the Physics Department vide letter dated 09.10.2013. Thereafter, petitioner received another appraisal from the respondent w.e.f. 01.10.2015 and also offered an Award on 26.09.2015. Again, the respondent revised the salary/CTC of petitioner w.e.f. 25.06.2017. However, for certain personal reasons, the petitioner sought resignation on 29.11.2018 from the



respondent. However, in the meantime, respondent issued a Show Cause Notice dated 24.01.2019 to the petitioner, which was duly replied by him on 25.01.2019. Thereafter, petitioner was relieved on 31.01.2020. However, thereafter petitioner waited for reimbursement of his full and final settlement amount but it was of no use. Petitioner claims that despite reminders dated 04.06.2019 to 21.06.2021, respondent has failed to clear the dues of petitioner.

5. According to petitioner, when all the efforts and requests for the outstanding dues failed, petitioner sent a legal notice dated 09.09.2021 to the respondent invoking arbitration in terms of Clause 36(a) of the service rules. However, respondent did not reply to the same, hence, this petition.

6. Learned counsel appearing on behalf of respondent has disputes the claims raised in the present petition, however, fairly conceded that the disputes *inter se* parties are arbitrable. Learned counsel also submitted that respondent has no objection if disputes are referred to an independent arbitrator appointed by this Court.

7. Accordingly, **Mr. Sachin Dutta, Senior Advocate (Mobile: 9810032822)** is appointed the sole Arbitrator to adjudicate the dispute between the parties.



8. The fee of the learned Arbitrator shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

9. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

10. The present petition and pending application, if any, are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

FEBRUARY 23, 2022

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