

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

Arbitration Case No. 101 OF 2022 (O&M)

Date of decision: 19th January, 2023

M/s T. K. Associates

Petitioner

Versus

Guru Nanak Dev University, Amritsar and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.
Mr. P. S. Rana, Advocate for the respondents.

AVNEESH JHINGAN, J (Oral):

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.

The brief facts are that the petitioner was allotted work vide allotment letter No. 2384 dated 21.6.2018. Clause 25 thereof provides for arbitration settlement through Engineer-in-charge. The petitioner raised a claim vide representation dated 1.12.2021. On failure of the Engineer-in-charge to respond to the representation, notice dated 1.2.2022 for appointment of arbitrator was served.

Learned counsel for the respondents objects the prayer and submits that the petitioner has not approached the Vice-Chancellor for change of arbitrator, hence no direction under Section 11 of the Act can be issued for appointment of an independent arbitrator.

Learned counsel for the petitioner relies upon amendment of Section 12(5) of the Act to submit that the officer of the department cannot be appointed as an arbitrator.

The contentions raised by learned counsel for the respondents

lacks merit. It is not the case of the respondents that the matter was referred for arbitration to the Superintending Engineer, hence there was no question for change of arbitrator. Sub-clause (vi) of Clause 25 deals with the eventuality where the arbitrator has to be changed. In view of amendment of Section 12(5) of the Act, the dispute cannot be referred for arbitration to the Superintending Engineer of the University.

Accordingly, the present petition is accordingly disposed of by appointing Ms. Sunita Kumari Sharma, D&SJ(Retd.), # 103, Krishna Square-I, near Celebration Mall, Amritsar as the sole arbitrator subject to declaration to be made under Section 12 of the Act with regard to independence and impartiality to settle the dispute between the parties.

The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. The fee of the arbitrator will be equally borne by both the parties.

The arbitrator is requested to complete the proceedings as per time limit specified under Section 29A of the Act.

It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement including the condition of pre-deposit.

Since the main case has been disposed of, pending applications, if any, stand disposed of.

Copy of the order be sent to the appointed arbitrator.

[AVNEESH JHINGAN]
JUDGE

19th January, 2023
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No