

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ARB-333-2017 (O&M)
Date of decision:-05.04.2024

Ram Avtar Gupta

...Petitioner(s)

Versus

Haryana State Warehousing Corporation, Panchkula (Haryana).

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE

Present:- Mr. Nikhil Vashisth, Advocate,
for the petitioner.

Mr. Lekh Raj Sharma, Advocate,
for the respondent.

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G.S. SANDHAWALIA, A.C.J. (ORAL)

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short the Act) for the appointment of an arbitrator.

2. On 02.02.2024, the following order was passed by the Coordinate Bench:-

“The present application has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short the Act) seeking appointment of an arbitrator.

After notice of this application, a reply has been filed by the respondent wherein it is stated that a Committee was constituted of senior officers to look into all the grievances of the applicant, but it has failed. In para 5 of the reply, it is stated that as per the applicant’s contention he has executed work to the tune of ₹ 924.52 lacs against the actual tender of ₹ 465.06 lacs. This fact in itself is sufficient to come to a conclusion that there is a dispute between the parties which even the Committee has failed to resolve.

Learned counsel for the respondent states that the Committee was constituted on 22.08.2022. As of today, more than one year has passed by, but no decision has been taken to resolve the dispute with respect to the amount of execution of the work. The respondent alongwith its reply has also placed on record payment of final bill relating to civil portion and electrical installation on 11.03.2016

through RTGS. Reference has been made to clause 5(a) of the DNIT contract which imposes upon the contractor a condition for filing return giving particulars of all claims of whatsoever kind. Reference has also been made to the judgement of the Supreme Court in International Construction Company Vs State of A.P. and others (2001) 2 Supreme Court Cases 642 as per which a claim within 15 days from the date of cause of action has to be made. The respondent has also placed on record a letter dated 04.07.2017 (Annexure P-5) wherein some provisional claims were raised by the applicant. The applicant had also made an undertaking dated 29.05.2015 (Annexure R-4) to the effect that he would not approach the Court for seeking appointment of an arbitrator on the ground that he had undertaken to execute the balance items as per the DNIT on the same rates, terms and conditions latest by 30.06.2015. In the reply, the respondent has also placed on record the payment of the amount. The final bill was paid on 11.03.2016. Since the bill was paid after 30.06.2015, the applicant’s grievance has to be resolved by a decision to be given by the arbitrator. The provision for the appointment of an arbitrator is contained in clause 25(A) at page 41 of the paper book.

Learned counsel for both the parties have agreed to Justice Jitendra Chauhan, a former Judge of this Court, being appointed as an arbitrator.

Let necessary declaration under Section 12(5) of the Act be obtained from Justice Jitendra Chauhan, a former Judge of this Court, and placed on record.

List on 01.03.2024.”

3. The necessary declaration under Section 12(5) of the Act, as sought from Justice Jitendra Chauhan, a former Judge of this Court, has been received and is placed on record.
4. The parties conjointly agree and submit that in view of the previous order dated 02.02.2024 passed by this Court, he may be appointed as an arbitrator.
5. In the circumstances, Justice Jitendra Chauhan, a former Judge of this Court, is appointed as an arbitrator to adjudicate upon the disputes and differences between the parties.
6. The petition, accordingly, stands disposed of.

(G.S. SANDHAWALIA)

ACTING CHIEF JUSTICE

05.04.2024

Amodh Sharma

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