



\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 10.01.2024***+ **LPA 132/2022 and CM 8988/2022 & 43574/2023**

MOHIT KUMAR SHARMA Appellant

Through: Appellant in person.

versus

TECHNOLOGY DEVELOPMENT BOARD Respondent

Through:

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL)**

1. The present appeal is preferred against the order dated 07.01.2022.

1.1 *Via* the impugned order, the learned Single Judge has deleted respondent Nos. 2 & 3 from the array of parties. The rationale provided by the learned Single Judge in the impugned order is that no allegation of mala fides or malpractice has been levelled against respondent Nos. 2 & 3.

2. We have heard the appellant, who appears in person. His principal grievance is that when he was taken on the panel of the respondent, i.e., Technology Development Board (TDB), the terms and conditions which operated, were those which are contained in a document issued to him on 31.08.2017. These terms and conditions, according to the appellant, were

*LPA 132/2022**Page 1 of 5*



changed on 01.12.2017 although the earlier terms and conditions obtaining as on 31.08.2017 were reiterated in July, 2018. Notably, the so-called reiterated terms and conditions are found on page 43 of the case file. The document does not bear a date.

3. The relevant part of the corrigendum, *qua* which the appellant has a grievance, reads as follows:-

“1. In partial modification to this office letter of even number dated 31.08.2017 regarding terms and conditions (ToR) of the panel Advocates of TDB, please note the following:

The fee structure given at para 2 (Professional Fees) and sub para 6 of page 3 of above ToR pertains to sole Arbitrator. The advocates assigned the arbitration cases will be paid fees as follows:

(i)	<i>In the Arbitration matters</i>	
	<i>a. Preparation of Claim Petition</i>	<i>Rs 7,500/-</i>
	<i>b. Miscellaneous & Subsequent Application/Submission</i>	<i>Rs 3500/-</i>
	<i>c. Clerkage</i>	
	<i>d. Miscs Expenses</i>	<i>10% of filing fee</i>
	<i>e. Arbitration Hearing</i>	<i>As per actual maximum up to 10% of filing fee</i>
		<i>Rs 1500/- per effective hearing</i>
		<i>Rs 300/- per non-effective hearing</i>

(ii) *Other terms of reference remain same.*

2. *This issues with the approval of Competent Authority”*
[Emphasis is ours]



4. A careful perusal of the said corrigendum would show that a change in the fee structure has been brought about by indicating that paragraph 2 and sub-paragraph 6 would apply to a sole arbitrator and not to the panel lawyer. For better appreciation, the relevant part of the original terms of reference are set forth hereafter:-

“PROFESSIONAL FEES

- A. *In consideration of due performance of Scope of Work, Professional Fees shall be paid for all activities undertaken by you as the Advocate for Board, including, but not limited to, conferences, court hearings, legal document review and preparation, legal research, correspondences etc.*
- B. *That bills/invoices can be raised at the earliest after undertaking any task assigned by the Board.*
- C. *Payments & clearance of bills shall be made on a quarterly basis. If you fail to submit the bills within a quarter, the clearance of bills shall lapse for the respective quarter. The bills for the activities undertaken after 15th date of the ending quarter month can be put up in the following quarter.*
- D. *In case additional expenses are necessary to be incurred by the Advocate towards the Engagement Purpose, the same shall be reimbursed by Board upon submission of bills of actual expenses by the Advocate and if found genuine by the competent authority of Board, (hereinafter “**Additional Expenses**”) subject to limits if any prescribed herein these engagement terms.*
- E. *All payments will be online through RTGS or as per the Board Policy.*
- F. *The aforesaid Professional Fees is exclusive of GST.*
- G. *The engagement for other matters not included in the table provided hereunder shall be in accordance with the prevailing schedule of fees payable to various categories of Central Government Counsel provide for by the Ministry of Law and Justice, Department of Legal Affairs, Judicial Section.*



Trial Courts/Forums/Tribunals

<i>Sl. No</i>	<i>Nature of Service</i>	<i>Rate (Rs.)</i>
6.	<u>Arbitration Matter</u> <u>a. Lump-sum amount will be paid for preparing, filing and defending petitions / appeals without any further charges for appearance in the court.</u> <u>b. Clerkage.</u> <u>c. Misc Expenses</u>	<u>Between Rs 75,000/- to Rs 1,00,000/- (As decided by the Board in each case).</u> <u>10% of professional fee.</u> <u>As per actuals maximum upto 10% of professional fee."</u>

5. In sum, it is the appellant's concern that for arbitration matters, he was to be paid a lumpsum fee ranging between Rs. 75,000/- and Rs. 1,00,000/- as per the decision of the TDB. Over and above this fee, 10% was to be paid as clerkage. Besides this, he was also entitled to claim actual miscellaneous expenses up to a maximum of 10%. The respondent/TDB, as indicated in the corrigendum dated 01.12.2017, has amended the terms of engagement, and indicated that sub-paragraph 6 would apply to the sole arbitrator, and not to a panel lawyer. As to whether this could have been done after the appellant was engaged in a matter is to be adjudicated in this writ petition.

6. It appears that the original respondent Nos. 2 & 3 have not acted in their personal capacity and with malice. The corrigendum dated 01.12.2017 clearly states that it was addressed to the appellant, with the approval of the "competent authority".

7. Given this position, we are not inclined to interfere with the impugned



2024: DHC: 255-DB



order.

8. The appeal is, accordingly, dismissed.
9. Pending applications, shall stand closed.

(RAJIV SHAKDHER)
JUDGE

(AMIT BANSAL)
JUDGE

JANUARY 10, 2024/kd

LPA 132/2022

Page 5 of 5

Signature Not Verified

Digitally Signed
By: DINESH KUMAR
Signing Date: 12.01.2024
20:25:32