

Arbitration Case No. 470 of 2021

[1]

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

**Arbitration Case No. 470 of 2021
Date of decision: 17th January, 2023**

M/s Nav Bharat Enterprises

Petitioner

Versus

Union of India

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.
Mr. Amit Sharma, Advocate for the respondent.

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 petitioner was allotted work vide allotment letter dated 21.3.2017.

Clause 64 of the terms and conditions provides for dispute resolution through arbitration in case Railway fails to take decision on the dispute within 120 days.

The petitioner gave notice dated 20.7.2021. On failure to do the needful, the present petition was filed.

Learned counsel for the parties are not disputing the clause of arbitration and that there is a dispute.

Learned counsel for the respondent submits that the issue with regard to limitation in pursuance to the time provided in the clause is involved.

The issue of limitation involves question of fact and can be raised before the arbitrator.

Learned counsel for the parties agree that Mr. Roshan Lal Ahuja, Additional District & Sessions Judge (Retd.), be appointed as arbitrator.

The petition is accordingly disposed of by appointing Mr. Roshan Lal Ahuja, Additional District & Sessions Judge (Retd.), 4-A, Palam Vihar (V. Dad), Pakhowal Road, Ludhiana as the sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to his 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.

Copy of the order be sent to the appointed arbitrator.

**[AVNEESH JHINGAN]
JUDGE**

17th January, 2023

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |