

Sr. No.11
supp

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Through Virtual Mode

Arb P No. 15/2021

M/S VK Gupta & Associates Engineers and ...Petitioner(s)
Contractors through Vinay Gupta.

Through: Mr. Nonu Singh Khera, Advocate.

Vs.

Union of India and Others. ...Respondent(s)

Through: Mr. Vishal Sharma, DSGI.

CORAM:

HON'BLE THE CHIEF JUSTICE

O R D E R
30.12.2023

1. The present application been filed for appointment of an arbitrator under Section 11 of the Arbitration and Conciliation Act. It has been submitted by Mr. N. S. Khera, learned counsel appearing for the petitioner that a similar arbitration petition bearing Arb P no. 16/2021 has been disposed of by this Court on 16.09.2023 by appointing an arbitrator.

2. Mr. Vishal Sharma, learned DSGI has filed objections. It has been submitted by Mr. Nonu Singh Khera, learned counsel for the petitioner that the similar objection was raised in the said application and after taking into consideration the said objection, this Court proceeded to appoint an arbitrator. The objection so raised was that

the petitioner had signed a 'No Further Claim Certificate' after furnishing the final bill which was received by the petitioner without protest in terms of Clause 65 of the GCC, the petitioner cannot have any further claim.

3. On the other hand, it was the plea taken by the petitioners therein as well as in the present case that the petitioner had given an undertaking as provided in the final bill which is a format prepared by the authorities and, as such, he had no option but to submit the final bill in the format prepared by the respondents. In that regard, this Court had observed that it is seen that a format was prepared by the authorities and it was an application by the petitioner and the petitioner had no other option but to sign a 'No Further Claim Certificate' and the petitioner after issuance of the counter sign certificate issued by the respondents on 25.01.2020, the petitioner immediately thereafter raised an additional claim and accordingly, this court was of the view that no claim certificate mentioned in format prepared by the respondents cannot come in the way of the petitioner for seeking appointment of an arbitrator in terms of the Clause 70 of GCC contract.

4. Accordingly, after hearing the parties and after consideration of the material on record, this Court proceeds to appoint Shri Vinod Sharma, retired Chief Engineer, R/o Trikuta-Nagar, Jammu House No. 04 Sector-01-A as a sole arbitrator who shall proceed in the matter in accordance with the provisions of the Arbitration and Conciliation Act before whom both the parties are at liberty to raise all such preliminary objections. The arbitrator shall, after hearing the parties, make an award which is provided in the Act after charging the prescribed fees along with incidental expenses to be shared by the parties.

5. Registry is directed to inform the arbitrator about his appointment as arbitrator in this matter and proceed according to law.

6. This arbitration petition is ***disposed of*** as such.

(N. KOTISWAR SINGH)
Chief Justice

SRINAGAR:

30.12.2023

Aadil

