



2025:DHC:3215-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 02.05.2025*

+ **FAO (COMM) 106/2025**  
**GMTD BSNL HISAR HARYANA** .....Appellant

Through: Ms. Sangeeta Sondhi, Mr.  
Daksh Jain and Mr. Amit Patra,  
Advs.

versus

**SURESH KUMAR SECURITY AGENCY** .....Respondent  
Through: Mr. Dhaval Mehrotra and Ms.  
Aditi Desai, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE RENU BHATNAGAR**

**NAVIN CHAWLA, J. (Oral)**

**CM APPL. 26658/2025(Exemption)**

1. Allowed, subject to all just exceptions.

**CM APPL. 26656/2025 (Delay of 63 days)**

2. For the reasons stated in the application, the delay of 63 days in filing the appeal is condoned.

3. The application stands disposed of.

**FAO (COMM) 106/2025 & CM APPL. 26657/2025**

4. This appeal has been filed under Section 37(1) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), challenging the Order dated 19.11.2024 (hereinafter referred to as 'Impugned Order') passed by the learned District Judge Commercial Court-01, South District, Saket Courts in OMP (COMM)



2025:DHC:3215-DB



No. 52/2023 titled as ***GMTD BSNL, Hisar Haryana Vs. Suresh Kumar Security Agency***, dismissing the said OMP, that is, the petition under Section 34 of the Act filed by the appellant herein.

5. To give a brief background of the facts of the present appeal, the respondent, by way of two separate agreements dated 21.05.2018, was appointed to provide security services to the appellant in its telecom installations, stores, and cash counters of Hisar, Sirsa, and Fatehabad. The said contracts were terminated by the appellant *vide* letter dated 05.11.2018. The respondent invoked the arbitration proceedings, alleging therein that the dues of monthly payments were not cleared in time by the appellant and were finally paid in instalments running up till 2022. The respondent, therefore, claimed *inter alia* interest for the delayed payments.

6. The learned Arbitral Tribunal, *vide* its Award dated 30.05.2023, allowed the claim of the respondent, *inter alia* observing as under:-

*"II. From the statement of RW1 and RW2 it is admitted fact that the DGR. Guidelines are the part of the binding agreement between the parties. The Clause 16 (c) of DGR Guidelines is reproduced as under: -*

*"16. Wages*

*....*

*(c) Principal-employer will pay wages to the security agency by 1<sup>st</sup> of every month. Payment to security guards/supervisors will be done by ECS/Cheque by the security agency by 7<sup>th</sup> of each month. In case the salary is not paid by ECS/Cheque due to compelling reasons, DGR will be intimated accordingly."*

*The para 13 of the agreements reads as under:*

*"13. Guidelines of DGR as amended from*





2025:DHC:3215-DB



*for its payment which will be paid by BSNL after the end of 2<sup>nd</sup> month, on the 1<sup>st</sup> of third month of deployment of the security guards. It could not be the sprit and intention of the guidelines that respondent will start paying for security agency only after taking service of two months from security guards/agency in the biggening. It is clear contravention of the agreed terms and conditions of the agreements. There is neither such terms or conditions in agreements between the parties nor this fact has been proved by any cogent evident on behalf of the respondent. However, the respondent by its own interpretation has taken it that the security agency shall first pay the guards for the first month by the 7<sup>th</sup> of the month then raised the bill then the respondent shall pay in the next month by first of the month if bills found in order otherwise the payment could be delayed for the reason that security agency has not raised the bills properly. It is not acceptable in view of the express DGR guidelines.*

*12. The dispute between the parties' rests on the two points. First, the claimant alleged at the payments have been delayed without any reason and fault on the part of security agency. Second, the respondent alleged that the bills of security agency were not paid by the respondent as security agency did not pay salary to the security guards by the 7<sup>th</sup> of each month and also did not submit bills on time after making statutory payments of ESI, EPF and GST. In this deal by agreements, the security agency was to perform its part by deploying the required security guards/supervisors which was performed by the security agency at first by deploying tis security guards/supervisors by the 01.06.2018 onwards. Thereafter, it was the respondent to perform its part by paying for security services on 01.07.2018 when the salary of security guards became due to be paid. When*





2025:DHC:3215-DB



*payment of Rs.12,13,167/- only on 18.10.2018 against huge outstanding of Rs.48,22,194/- as on 05.09.2018. The RW1 in response to Q. No.16 admitted in his cross-examination that BSNL did not make payments due to non-availability of funds after referring the para no.14 of SOD. It has also come in his statement that BSNL system did not accept the bills older than 60 days. Thus, there was the trouble with respondent only in not making payments as there was non-availability of funds and their system was another hurdle in delaying the payments of bills. The Respondent never bothered to intimate the claimant about any issue with bills, at once. It has come in evidence that the bills were duly raised in time after making statutory deposits, formalities and payments of salary of the security guards. It has come in evidence of the claimant that he made the payment to the security guards by borrowing money and from personal funds of proprietor.*

*13. The above discussion of the facts, evidence oral and documentary and circumstances of the case goes to indicate that the fault was on the part of the respondent in delay of payment to the security guards as respondent failed to make any payment on time of outstanding amount and no fault on the part of the claimant.”*

7. The learned Arbitral Tribunal directed the appellant to pay to the respondent a sum of Rs. 18,04,621/- on account of interest on delayed payments, calculated at the rate of 12% per annum. The learned Arbitral Tribunal also awarded the cost of the proceedings amounting to Rs. 82,500/- in favour of the respondent.

8. Aggrieved by the Award, the appellant challenged the same by way of an application under Section 34 of the Act, which has been





2025:DHC:3215-DB



arrive at its findings. The Arbitral Tribunal is also the final judge on the interpretation to be placed on the agreement. A similar restriction on power, if not more, is placed on the Appellate Court exercising jurisdiction under Section 37 of the Act. Reference in this regard is placed on *Larsen Air Conditioning and Refrigeration Company v. Union of India & Ors.*, (2023) 15 SCC 472.

12. The dispute raised by the appellant has been duly considered by the learned Arbitral Tribunal, as would be evident from the extracts of the Award quoted herein above.

13. The learned counsel for the appellant, even otherwise, has not been unable to show to us that, at the relevant time, the respondent was ever informed of any deficiency in the invoices raised by the respondent.

14. Apart from contending that the learned Arbitral Tribunal has re-written the agreements between the parties, no basis for the submission has been shown to us.

15. We, therefore, do not find any merit in the present appeal. The same is, accordingly, dismissed. The pending application(s) are also disposed of.

**NAVIN CHAWLA, J**

**RENU BHATNAGAR, J**

**MAY 2, 2025/ab/my/VS**

*Click here to check corrigendum, if any*