

2022/Sig./27/1/WP

I/3102344/2024

(भारत सरकार) GOVERNMENT OF INDIA
(रेल मंत्रालय) MINISTRY OF RAILWAYS
(रेलवे बोर्ड) RAILWAY BOARD

No. 2022/Sig/27/1/WP(2)

New Delhi, Date: 09.08.2024

The PCSTEs
All Indian Railways


Sub: Deciding of fee to Arbitral Tribunal Members
Ref: Railway Board L.No.2020/CE-I/CT/ARB/4E/Arbitration Fee
dtd.03.04.2023 (Copy enclosed)

Vide above referred letter instructions were issued by Railway Board that due care should be taken w.r.t. the ceiling limit as prescribed in the schedule IV of the Arbitration and Conciliation Act, 1996, while giving consent for deciding the fee of arbitrator during first/preliminary hearing.

However, in a recent case of Arbitration in one of the Zonal Railways, it has been observed that due care has not been observed while giving consent for deciding the fee of arbitrators during first/preliminary hearing as per the ceiling limits mentioned in the schedule IV of the Arbitration and Conciliation Act, 1996.

In order to avoid such situation in future and to ensure that the Railways interest is safeguarded it is reiterated that all Zonal Railways should abide by the directions as advised vide the letter under reference.

D/A : As above


09/08/2024
(रामेश्वर मीना)

कार्यकारी निदेशक(सिग्नल)
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Copy to: EDF(X)-II for kind information.



भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
(रेलवे बोर्ड Railway Board)



No. 2020/CE-I/CT/ARB/4E/ArbitrationFee

New Delhi, Dated: 03.04.2023

The General Managers,
All Indian Railways

Sub: Payment of fee to the members of Arbitral Tribunal in Arbitration proceedings

A case has come to the notice of Railway Board where fee has been paid to the members of Arbitral Tribunal well beyond the ceiling limit stipulated in Schedule-IV of Arbitration and Conciliation Act, 1996.

- 2) The fees of court appointed arbitrators are governed by Schedule-IV of Arbitration and Conciliation Act, 1996. As per Section 11 (3A) of Arbitration & Conciliation Act, 1996, "..... the arbitrators appointed by a party shall be entitled to such fee at the rate as specified in the Fourth Schedule". However, vide order dated 17.12.2022, the Hon'ble Supreme Court in the case of ONGC Vs Afcons Gunanusa JV has made it clear that where the parties have fixed the fee by consent, neither the Schedule-IV to the Act nor the model principles of fixation set out in the said decision would apply.
- 3) In view of the latest judgement of Hon'ble Supreme Court, it is advised that Railways may take conscious decision at the initial stage of Arbitration proceedings itself, whether the fees to be paid to the members of Arbitral Tribunal will be within the ceiling prescribed in Schedule-IV of Arbitration and Conciliation Act, 1996 or otherwise.
- 4) This issues with the concurrence of Finance Directorate of Ministry of Railways.

(गौरव)

निदेशक सिविल इंजी.(जी)/रेलवे बोर्ड

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No. 2020/CE-I/CT/ARB/4E/ArbitrationFee

New Delhi, Dated: 03.04.2023

Copy forwarded for information to:

- (i) The PFAs, All Indian Railways.
- (ii) Dy. Comptroller and Auditor General of India (Railways), Room No. 224, Rail Bhawan, New Delhi.

3/4/23
For Member Finance