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EMPLOYMENT DISPUTE ARBITRABLE IF AGREED IN THE EMPLOYMENT AGREEMENT

The Calcutta High Court (**HC**), in the *Sreepad Bhivaniwala* case,¹ held on June 30, 2025, if an employee's termination was not a termination simpliciter, then such employee can resort to arbitration as the mode of dispute resolution in the event the employment agreement provides for the same.

Brief Facts

Sreepad Bhivaniwala (**SB**) was employed in the role of a senior manager - audit, at the audit firm Grant Thornton (**GT**). During his employment, SB was issued a show-cause notice based on allegations made by a female employee and enquiry was conducted. Subsequently, he was terminated in November 2024 on grounds of 'business reasons'. SB was of the view that it was not a simpliciter termination and therefore requested the GT to refer the issue to dispute resolution through arbitration.

His appointment letter dated February 27, 2023, (**Employment Agreement**) stated that any dispute shall be resolved through arbitration. Consequently, SB filed a petition before the HC for the appointment of an arbitrator to resolve the dispute.

SB's Contentions

GT was bound by the terms and conditions of the Employment Agreement. Though GT had the right to terminate SB with immediate effect with 60 days' notice pay and without reasons, the termination had negatively impacted his reputation and that he had the right to contest the same. SB had rightly complied with clause 16 of the Employment Agreement which provided for arbitration as the mode of dispute resolution.

¹ *Sreepad Bhivaniwala v. Grant Thornton US Knowledge and Capability Center India Pvt. Ltd.*, AP No. 62 of 2025.

GT's Contentions

SB's employment was private in nature and is not covered under Article 311 of the Constitution of India² as SB was not a public servant. Therefore, the HC had no jurisdiction to take up the matter. The termination was lawful considering the Employment Agreement had a valid termination clause that permitted GT to terminate SB with immediate effect and with 60 days' notice. Therefore, he is not entitled to any other relief. An arbitration to settle this non-arbitrable dispute would be time consuming and futile which was contrary to the objective of Section 11 of the Arbitration and Conciliation Act, 1996.³

HC's Judgement & Reasoning

The HC:

- Held that SB and GT were bound by the terms of the Employment Agreement which set out arbitration as the mode of dispute resolution.⁴
- Held that the on a *prima facie* basis that the termination was not simpliciter as contended by SB, since he was terminated for 'business reasons' and immediately post the female employee lodging a complaint.⁵
- Reiterated that the arbitrator has the jurisdiction to adjudicate valid claims made by SB, and that the existence of an arbitration clause in the Employment Agreement qualified the present dispute for arbitration.
- Directed that GT may challenge the arbitrability of the dispute at the relevant stage of arbitration.⁶
- Ordered appointing a sole arbitrator to arbitrate upon the dispute.⁷

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² Article 311 of the Constitution of India grants protection to public servants against arbitrary termination by requiring an inquiry to be held. This inquiry will give the public servant the opportunity to be heard.

³ Section 11 of the Arbitration and Conciliation Act governs the appointment of arbitrators and states that the HC can appoint the arbitrator on behalf of the parties if they fail to agree on an appointment procedure.

⁴ Paragraph 13 of the Judgement.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Paragraph 15 of the Judgement.