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

+ **W.P.(C) 8935/2018**

MRS. KULPREET KAUR

..... Petitioners

Through: Ms Manmeet Arora, Ms Pavitra Kaur
and Mr Keshav Sehgal, Advocates.

versus

**THE DEPUTY INSPECTOR GENERAL CENTRAL
INDUSTRIAL SECURITY FORCE**

..... Respondent

Through: Mrs Suman Chauhan with Mr
Harminder Singh, Assistant
Commandant, CISF.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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27.08.2018

VIBHU BAKHRU, J

CM APPL. 34353/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 8935/2018 & CM APPL. 34352/2018

3. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a) Issue a writ of mandamus directing the Respondent to comply with the terms of the Impugned Contract dated 16.11.2017 and extend the Impugned Contract by a period of at least two and a half (2 ½) months so as to enable the Petitioner to seek an alternative livelihood;

- b) Issue a writ of Certiorari directing the Respondent to produce the records pertaining to the Contracts entered into with the Petitioner;”

4. The petitioner is engaged in the business of supplying vehicles for transportation. On 21.06.2017, the respondent (hereafter CISF) issued a tender enquiry for supply of 12 CNG Buses for a period of six months which was further extendable for a further period of six months. The petitioner submitted its bid for the aforesaid tender enquiry and was successful. On 16.11.2017, the parties entered into a contract whereby the petitioner agreed to provide 12 CNG Buses at the rate of ₹1,07,000/- per bus per month for a period of six months from 17.11.2017 to 16.05.2018 (hereafter ‘the Contract’). The term of the Contract was further extendable for a further period of six months.

5. The term of the Contract expired on 16.05.2018. Prior to the said date, by a letter dated 06.04.2018, the petitioner gave its consent for extension of the term of the Contract for a further period of six months.

6. On 29.05.2018, CISF issued a work order extending the term of the Contract for a period of three and a half (3 ½) months instead of six months as agreed by the petitioner. The petitioner is essentially aggrieved by non-extension of the contract for the full term of additional six months.

7. The petitioner contends that the petitioner had quoted the rate of ₹1,28,000/- per month pursuant to the tender enquiry. However, she had agreed to reduce the same to ₹1,07,000/- per month on the assurance that the term of the Contract would be extended for a further period of six months.

8. Since the term was extended only for a period of 3 ½ months instead of six months, the petitioner approached the officers of CISF and she claims that she was assured that the Contract would be extended by a further period of 2 ½ months also.

9. Ms Arora, learned counsel appearing for the petitioner submits that the petitioner had agreed to reduce the rates on an express representation that the Contract would run for the entire term of 12 months. She further states that it was not open for CISF to extend the Contract for only 3 ½ months and as that was neither contemplated under the Contract dated 16.11.2017 nor consented to by the petitioner. She also referred to Clause 4 of the Contract and contended that the Contract was necessarily required to be extended for a period of six months; the only condition being that the performance of the petitioner should be satisfactory. She submits that since there is no complaint with regard to the petitioner's performance, the CISF could not have reduced the term of the Contract by 2½ months.

10. Ms Chauhan, the learned counsel who appears for the respondent on advance notice has referred to the tender enquiry and has drew the attention of the Court to Clause 4 of the same, which reads as under:-

“4. The Contract will be awarded for six months or till procurement of vehicles by CISF, whichever is earlier. It is further extendable for six months at the same rate, terms & conditions and at the sole discretion of CISF.”

11. She states that with effect from 31.08.2018, the CISF Headquarters had supplied the requisite number of CNG Buses and, therefore, there is no requirement for CISF to hire any bus from the petitioner. She states that in

the circumstances, the Contract was only extended for 3½ months and not by six months as permissible.

12. I have heard the learned counsel for the parties.

13. At the outset, it is relevant to mention that the disputes raised in the present petition are essentially private contractual disputes, which have no element of public law.

14. In this view, it would not be apposite to entertain the controversy sought to be raised in these proceedings, under Article 226 of the Constitution of India. (*See: Joshi Technologies v. Union of India: (2015) 7 SCC 728*).

15. Having stated the above, this Court may also examine the terms of the Contract dated 16.11.2007. Clause 4 of the Contract is relevant and is set out below:-

“The Contract is awarded for six months (i.e. 17.11.2017 to 16.05.2018), further extendable by six months subject to the satisfactory performance of the firm at the same rate, terms & conditions, and sole discretion of CISF.”

16. A plain reading of Clause 4 of the Contract clearly indicates that the extension of the Contract was at the sole discretion of CISF. Therefore, the contention that CISF was bound to extend the Contract if the performance of the petitioner found satisfactory, is unmerited. Although the extension of the Contract was at the sole discretion of the CISF, the same was, of course, subject to the condition that the performance of the petitioner should be satisfactory.

17. The contention that the Contract could be extended only for a period of six months and not for a truncated (a period less than six months) may have some merit. However, it is important to note that although the petitioner had given the consent for extension of the Contract for a further period of six months, she had accepted the Work Order dated 29.05.2018, whereby the Contract was extended for the limited period of 3½ months only. In this view, it would not be open for the petitioner to now contend that the said extension was not in terms of the Contract and the CISF is bound to extend the same for a further period of 2½ months. If the petitioner found that the extension of the term of the Contract was in its terms, it was always open for the petitioner to decline the Work Order.

18. The contention that the Contract is required to be extended on the basis of the representation made to the petitioner is also unpersuasive. The terms of the Contract and the Work Order are unambiguous and, any oral representation made by the petitioner would be of little value.

19. In view of the above, this Court does not find any reason to interfere with the present petition. The petition is, accordingly, dismissed. The application also stands disposed of.

20. It is also clarified that the observations made herein regarding the merits of the disputes are *prima facie* and would not preclude the petitioner from availing other remedies in accordance with law.

VIBHU BAKHRU, J

AUGUST 27, 2018/RK