

15.07.2024

Ct. 23

D/L 54

ab

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 3100 of 2024

Barid Baran Das

-Vs-

Syama Prasad Mukherjee Port & Ors.

Mr. Siddhartha Goswami,

Mr. Sagar Roy,

Ms. Upasana Shaw

.... for the petitioner

Affidavit of service filed in Court today is taken on record.

The petitioner was engaged as a Marine Engineer on purely temporary ad hoc basis by Calcutta Port Trust after having retired from his regular services of the Calcutta Port Trust, Haldia Dock Complex. The terms and condition of such engagement have been stipulated in the offer letter dated 15th January, 2004. The said contractual engagement was extended from time to time and the last extension was given on 17th December, 2007 for a period of two months on the same terms and conditions as of the original engagement. The petitioner says that beyond two months period as indicated in the last extension letter dated 17th December, 2007, the petitioner had to work for an additional period from 1st March, 2008 to 9th March,

2008 under the compelling circumstances. The petitioner says that he was not paid his remuneration as per the contract for the petitioner from 1st March, 2008 to 9th March, 2008. The petitioner says that the compelling circumstances was that the vessel where he was deployed was at sand head and there was no scope of the petitioner alighting from the said vessel in absence of any alternative communication being made available to him for coming to the shore from the said vessel. The petitioner says that he has been paid the remuneration of Rs. 7,150/- for the period from 1st March, 2008 to 9th March, 2008 at the contractual rate as late as on 26th October, 2023. The petitioner was, however, not paid any interest for the delayed payment of Rs.7,150/-. The petitioner says that the said money was received after running from pillar to post due to failure on the part of the respondent to pay the sum they were obliged to under the contract and as such, the port authority ought to have provided interest on the said sum of Rs. 7,150/- which, according to the petitioner, was paid after a lapse of more than 15 years. The claim of the petitioner on account of remuneration is a money claim arising out of a contract. It is not a retirement benefit, which is available to the petitioner month by month in case of pension or like the provident fund, gratuity and leave encashment payable at the time of retirement, for non-payment of which, the

petitioner can maintain a writ petition on the ground of continuing wrong. Money claim, if paid, even beyond the period of limitation does not extend the limitation period by way of admission. The petitioner in the instant case was required to approach the appropriate forum to enforce the contract for releasing his claim within a period of three years from the date of its accrual. The petitioner may have made representation or had gone before the authority but the same did not extend the period of limitation. Moreover, looking into the matter from angle of the concept of continuing wrong as held in ***Union of India & Others vs. Tarsem Singh*** reported in **(2008) 8 SCC 648** as upheld in **2024 SCC Online SC 489 (Union of India & Anr. Vs. Jahangir Byramji Jeejeebhoy (D))** and **2024 (3) SCC 148 (Delhi Development Authority vs. Hello Home Education Society)**, the failure to pay the remuneration under a contract was a wrong on the part of the respondents which was a one-time act caused with the breach and ceased after the failure to pay occurred. The damage resulting out of it may have persisted and continued but wrong in such case cannot be said to be continuing wrong. Even the violation of the principles of natural justice as alleged by the petitioner does not support the petitioner's case as narrated hereinabove.

In the aforesaid facts and circumstances, the writ petition fails and is disposed of without any order.

(Arindam Mukherjee, J.)