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**In the High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

WPA 4628 of 2018

**M/s. Indian Traders represented by Rajat Mandal  
VS  
The State of West Bengal & Ors.**

**Mr. Subir Sanyal.  
Mr. Partha Sarkar.  
Mr. Abhijit Basu.  
Ms. Megha Sarkar.**

**... For the petitioner.**

**Mr. Susovan Sengupta.  
Mr. Manas Kumar Sadhu.**

**... For the State.**

Leave granted to the learned advocate on record of the petitioner to implead the Secretary, Finance Department as party respondent in the instant writ petition. The formality of serving a copy of the writ petition upon the added respondent stands dispensed with as the State is already represented by the learned counsel.

The petitioner was engaged to render security and scavenging services in the Institute of Blood Transfusion, Medicine and Immuno-haematology, Kolkata. Its service was terminated on 31<sup>st</sup> March, 2016.

The Director of the said Institute requested the petitioner to continue the services upto 31<sup>st</sup> March, 2017 in the interest of public service as the services were highly essential in the Institute.

The intimation to the petitioner to continue with the service was communicated to the Joint Secretary, Medical

Service Branch and also to the Accounts Section. Relying on the aforesaid communication, the petitioner rendered service till 31<sup>st</sup> March, 2017.

Allegation is that payment for the entire year starting from 1<sup>st</sup> April 2016 till 31<sup>st</sup> March, 2017 has not been made. A sum of Rs. 19,54,926.96/- is due and payable to the petitioner on account of security and scavenging service rendered by it. The representation made before the Joint Secretary of the Medical Service Branch has not been responded to.

It has been submitted that during the contractual period the approval of the services of the petitioner had on occasions been made post facto and the petitioner rendered services on the expressed direction and request of the authority to continue the service.

Learned advocate representing the State respondents has obtained instruction from the Director. The report forwarded by the Director mentions that the payment of the due bill of the petitioner could not be made without any valid extension order from the State authority. The report forwarded by the Director mentions the figure which is due and payable to the petitioner as Rs. 16,12,819/-. It appears that the bill was submitted before the P&A Accounts but the same was objected to.

From the submission made on behalf of both the parties and upon perusal of the instruction forwarded by the Director, it is admitted that the petitioner rendered service till March 31, 2017. It is for the authority to extend the period of service and thereafter proceed with

payment of the bill. It is absolutely improper to withhold the payment despite rendering service on request of the authority on the ground that extension of service was not made.

The authority ought to have appreciated that the petitioner was no way responsible for its tenure not being extended. It is only on the request made by the Director that the petitioner continued to provide service to the institute.

The Director has clearly mentioned that it was absolutely impossible to stop the service rendered by the agency to clean the day to day laboratory bio medical waste, which usually piles up during blood processing. The Institute is one of the largest blood bank and huge quantity of blood collection takes place. Daily production of bio medical waste in large quantity is required to be cleared up to maintain the laboratory in a clean and aseptic manner.

Despite performance of such onerous duty, the petitioner has been deprived of the bill raised. On the contrary, the petitioner cleared the Employees Provident Fund and E.S.I. dues in accordance with law for the entire period of one year.

It is the bounden duty of the Director, Institute of Blood Transfusion to take positive steps and ensure that the extension of the service period of the petitioner is taken up and payment is made for the services rendered. The authority ought to have appreciated that the petitioner was not doing free service without expecting

payment. In fact, the authority cannot make the petitioner work without paying the service charges.

The Principal Secretary, Department of Health and Family Welfare and the Secretary, Finance Department are directed to take up the issue diligently for ensuring payment to the petitioner.

The aforesaid respondents shall do the needful to clear the bills of the petitioner at the earliest but positively within a period of twelve weeks from the date of communication of this order.

As the petitioner was compelled to approach this Court for no fault of his and the money will be paid to the petitioner after a lapse of nearly seven years, the petitioner ought to be paid interest on account of such delayed payment.

Accordingly, the money which will be payable to the petitioner shall be paid with simple interest at the rate of 7% per annum calculated on and from the date it was payable till the date of actual payment.

It is made clear that if the money is not paid within the time limit as specified hereinabove, the petitioner would be entitled to an additional interest of 2 % that is  $7\%+2\%=9\%$  till the date of actual payment.

Learned advocate for the petitioner is directed to forward to the aforesaid respondent a copy of the bills which are due and payable to the petitioner, representation made by the petitioner dated 25<sup>th</sup> October, 2017 and the communication of the Director dated 28<sup>th</sup> February 2017 to the Joint Secretary MS Branch at the

time of communicating the order of the Court.

The writ petition stands **disposed of**.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**( Amrita Sinha, J.)**