

S/L 15
11.02.2021
Court No.26
SD

WPA 3724 of 2021
(Via Video Conference)

Alok Dutta
Vs.
State of West Bengal & Ors.

Mr. Ekramul Bari
Ms. Tanuja Basak
Mr. Siddhartha Sankar Mondal
...for the Petitioners.

Mr. Supriyo Chattopadhyay
Ms. Iti Dutta
...for the State.

Mr. Sakya Maity
...for the Respondent No.4.

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is seeking condoning the age bar for the post of Clerk of the school concerned.

It is to be noted that the petitioner has been working in the said school from 2007 till date. The present advertisement calling for selection of the post of Clerk has an age limit of 40 years. Unfortunately, the petitioner is 42 years old and does not qualify as per the advertisement.

Mr. Ekramul Bari, counsel appearing on behalf of the petitioner submits that in cases where a person is working with the institution, normally the institution condones the age limit bar. To buttress his argument, he places reliance on the Larger Bench judgment of this High Court in ***Gobinda Chandra Mondal vs. Principal, Rabindra***

Mahavidyalaya reported in **(2013) 1 CHN 9**. The relevant portion of the judgment is extracted below:-

“27. If the appointment is made without undertaking selection procedure under Rule on ad hoc or temporary basis engaging the candidates having requisite qualification namely age and education at the time of appointment against substantive post the candidates in those cases shall be allowed to compete and/or participate in the selection process along with other eligible candidates at the time of regular recruitment process condoning the age as they have acquired right to be considered.”

I have also heard the counsel appearing on behalf of the School and he has fairly submitted that the case of the petitioner may be considered as he has faithfully served for the last 14 years.

In light of the same, the school authorities are directed to condone the age limit bar in the case of the petitioner keeping in mind the service put in by the petitioner and allow him to participate in the selection process.

With the above observations, this writ petition is disposed of.

Since, no affidavit-in-opposition has been called for the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Photostat plain copy of this order duly counter-signed by the Assistant Registrar (Court) be handed over to the parties on usual undertaking.

(Shekhar B. Saraf, J.)