

23.11.2021
Sl. No.1
srm

W.P.A. No. 15882 of 2017
(CAN 1 of 2018 (Old No.CAN 8538 of 2018)
(CAN 2 of 2020) (not in file)

Anindita Das
Vs.
The State of West Bengal & Ors.

Mr. Arunava Ghosh,
Mr. Anant Kumar Shaw,
Mr. Ravi Kumar Dubey
...for the Petitioner.

Mr. Sandip Kumar Bhattacharyya
...for the Garulia Municipality.

Mr. Arun Kumar Roy,
Sk. Musior RAhaman
...for the State-respondents.

The writ petition was filed challenging the employment notice issued by the Chairman of Garulia Municipality for filling up the posts of Teacher (Bengali Medium). The petitioner was working on casual basis for a long time. Records reveal that the petitioner was engaged on casual basis at least 15 years prior to the issuance of the employment notice. As the petitioner had crossed the age limit prescribed in the notice, this Court was approached.

Reliance was placed on several decisions of the Hon'ble Apex Court and of this Court, where under similar circumstances, participation of such candidates were allowed

by relaxing the age bar in view of the long services rendered by such persons who were engaged on casual basis.

Reference is made to the decision of a co-ordinate Bench of this Court in the matter of Sk. Haquae Alam vs. The State of West Bengal & Ors. [In Re: W.P. No.1568 (W) of 2017], wherein the Court allowed relaxation of the age bar, in case other eligibility criteria were fulfilled. The relevant portion of the above decision is quoted below:

“Having heard the parties and considering the materials placed, this Court, is of the considered view that the ratio of the judgments of the Hon’ble Larger Bench *In Re: Gobinda Chandra Mondal v. Principal, RAbindra Mahavidyalaya with others* reported in 2013(1) CHN(Cal) 9 and of the Hon’ble Division Bench *In Re: The Principal, Purnidevi Chowdhury Girls College, Bolpur & Ors. reported in (2015) CAL LT 573(HC)* apply to the facts of present case. Accordingly, the respondent/Institute, represented by the respondent Nos.3, 4 and 5 are directed to consider the application of the petitioner in accordance with law on relaxation of age bar and, on fulfilment of the eligibility criteria, inclusive of continuous temporary service in the vacancy against a substantive post.”

Accordingly, as an interim order, this Court had directed that the petitioner should be allowed to participate and the application should be accepted without insisting on the age bar. It was, however, directed that the result should not be declared, without the leave of the Court.

Parties are before this Court and it is submitted by Mr. Bhattacharyya, leaned Advocate appearing on behalf of the

Garulia Municipality, that the recruitment process has come to an end and he prays for leave to publish the result. Mr. Bhattacharyya further submits that because of the pendency of the writ petition, the recruitment process cannot be reached to its logical conclusion, although undertaken in 2017. Thus, he prays for leave to publish the result.

Having heard the learned Advocates for the respective parties, this Court grants such leave to the municipality to publish the result. The candidature of the petitioner shall be considered on the basis of the merit list. It is submitted by the municipality as also the other respondents that they do not have any objection to the finalisation of the recruitment process and they shall also not insist on the age bar prescribed in the recruitment notice in case the petitioner fulfils the other eligibility criteria and has been successful in the selection process. The petitioner has been discharging her duty for almost 20 years in the municipality on casual basis. If the petitioner has the requisite qualification, the age bar can be condoned and the municipality is willing to do the same in view of the several decisions of this court. Resolution to that effect has also been adopted by the municipality.

As the recruitment process was pending in view of the order passed in the writ petition, it is expected that the entire

recruitment process shall be completed within a period of two weeks from date.

This writ petition is, thus, disposed of.

In view of the disposal of the writ petition, the connected applications have become infructuous and those are disposed of accordingly.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)