

WPA 3790 of 2019

Sri Surajit Das & Anr.

Vs.

**Kolkata Metropolitan Development Authority (KMDA)
& Ors.**

**Mr. Tulsi Das Roy
Mr. Tapan Roy
Mr. Tirthankar Roy**

..for the petitioners

**Mr. Satyajit Talukdar
Mr. Abhishek Sarkar**

...for the KMDA

**Ms. Sudipa Roy
Mr. Srinath Singha Roy**

...for the State

**Mr. Arup Kumar Lahiri
Mr. Udayan Datta**

**..for the respondent nos. 5 to 9
and 21 to 29.**

The two writ petitioners were appointed in the post of Accounts Assistants in Kolkata Metropolitan Development Authority (KMDA) vide appointment letters dated 2nd November, 2011. From these two appointment letters both are dated 2nd November, 2011 it appears that the petitioners were appointed on probation for a two years which can be extended for another one year.

It has been submitted by Mr. Tulsi Das Roy, learned advocate appears on behalf of the petitioners that vide order dated 8th January, 2019, 25 (twenty five) Accounts Assistants were promoted to the posts of senior Accounts Assistant who are similarly

circumstanced like the petitioners and according to the petitioners these 25 Accounts Assistants are junior to these two writ petitioners in terms of their appointment in the feeder posts of Accounts Assistant.

According to the petitioners before granting benefit of promotion to these 25 (twenty five) Accounts Assistants the case of promotion of the petitioners ought to have been considered by the concerned authority of KMDA which has not been done in the present case. Prayer has been made for promoting these two writ petitioners to the posts of Accounts Assistant from the date when 25 (twenty five) other candidates were promoted to the posts of senior Accounts Assistant.

Mr. Satyajit Talukdar, learned advocate appears on behalf of the KMDA authorities and submitted that these two writ petitioners were appointed as Accounts Assistant for a period of two years on probation and that could have been extended for another one year. But fact remains till date though they were appointed on 2nd November, 2011 these two writ petitioners have not been confirmed in their respective posts of Accounts Assistant.

Mr. Talukdar has further submitted that these two writ petitioners were appointed on compassionate ground and according to the norms they should have

been appointed in Group-C posts but wrongly they have been appointed in the posts of Accounts Assistant which is Group-B post. In this regard attention of this Court has been drawn to page 71 of the affidavit in opposition affirmed on behalf of the KMDA wherein the Joint Secretary, Urban Development Department, Government of West Bengal vide issuing memo dated 2nd February, 2015 in response to the request made on behalf of KMDA clarified that appointment of petitioner no. 1 can be made in Group-C post in view of the fact that petitioner no. 1 has not been confirmed as yet.

Therefore, it has been contended on behalf of KMDA that since both the writ petitioners are not confirmed in the feeder post of Group-B as yet question of granting benefit of promotion to them does not arise.

Mr. Arup Kumar Lahiri, learned advocate appearing for the private respondents has also adopted the submission made on behalf of the KMDA.

This Court has considered the submissions made on behalf of the rival parties and has also perused the relevant documents available on record.

Both the writ petitioners have prayed for promotion to the posts of senior Accounts Assistant from the feeder post of Accounts Assistant on the ground that the private respondents have been promoted to such higher posts ignoring the seniority of

the writ petitioners. But it appears from the appointment letters issued in favour of the writ petitioners that they were appointed as Accounts Assistant on probation for two years and fact remains till date they have not formally been confirmed in such posts of Accounts Assistant. In addition thereto, the point has been taken on behalf of the KMDA that the petitioners were wrongly appointed in the post of Group-B (Accounts Assistant) rather they ought to have been appointed in the post of Group-C and such stand has already found support by the clarification offered by the Joint Secretary, Urban Development Department as contained in memo dated 2nd February, 2015. However, this Court is not making any observation with regard to the nature of appointment given in favour of the writ petitioners unless the same is finally decided by the appropriate authority of KMDA.

It appears from above discussion that the petitioners till date have not been confirmed in the posts of Accounts Assistant by the concerned authority of KMDA therefore they could not be treated as similarly circumstanced candidates like the private respondents who have already been promoted to the posts of senior Accounts Assistant.

In the above conspectus, the writ petition stands dismissed. However, there shall be no order as to costs.

However, if any representation has been made on behalf of the writ petitioners for confirmation of their appointment in their respective posts of Accounts Assistant this order shall not preclude the concerned authority of KMDA to take decision on such representation in accordance with law within a reasonable time.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Saugata Bhattacharyya, J.)