

09 25.04.2022
rkd Ct.15

W.P.A. 5927 of 2016

Subir Mitra

-vs-

The State of West Bengal & Ors.

Mr. Rabiul Islam,
Ms. Pramita Banerjee,
Ms. Keya Sutradhar

....for the petitioner.

Mr. Malay Bhattacharyya,
Ms. Subhrajyoti Ghosh

....for the Corporation.

Petitioner in the present writ petition has prayed for regularisation of his service under Chandernagore Municipal Corporation, being the principal respondent based on the appointment letter dated 8th July, 2011 since according to the petitioner a case has been made out that certain candidates were appointed as Helper like the petitioner were absorbed in their respective posts. According to the petitioner though he was appointed on purely contractual basis as Helper but he should have been permanently absorbed as it has been done in respect of some of the candidates as stated in paragraph 9 of the writ petition.

Considering the submission made on behalf of the petitioner by Mr. Islam, learned advocate this Court directed the concerned authority of

Chandernagore Municipal Corporation to submit a report with regard to claim of the petitioner.

Pursuant to such order report in the form of affidavit has been affirmed on behalf of the Chandernagore Municipal Corporation wherefrom it appears that a regular selection process was initiated by publishing newspaper advertisement on 12th March, 2015 and accordingly such selection process pursuant to the recruitment rules was completed in 2015 and the similarly circumstanced candidates as that of the petitioner were appointed based on such selection process initiated in the year 2015.

Mr. Bhattacharya, learned advocate representing the Chandernagore Municipal Corporation has also submitted that it was open to the petitioner to offer his candidature in the selection process conducted in the year 2015. However, petitioner chose not to participate in the said selection process. Therefore, according to the Chandernagore Municipal Corporation at this belated stage the prayer for absorption of the petitioner cannot be acceded to.

This Court has heard the submission of the rival parties and perused the pleadings as well as the report filed on behalf of the Chandernagore

Municipal Corporation.

It appears that petitioner was appointed vide appointment letter dated 8th July, 2011 on purely contractual basis as Helper against monthly consolidated remuneration of Rs.3,000/- per month. Petitioner based on such appointment letter has prayed for absorption on substantive basis. Some other candidates were absorbed in the meantime who were similarly circumstanced like the petitioner. However, on perusal of the report filed on behalf of the Chandernagore Municipal Corporation, it appears that the candidates who were absorbed were beneficiaries to the selection process which was conducted in 2015 but the petitioner chose not to participate in the said selection process.

In view of above circumstances, it appears that petitioner having not participated in the selection process who was appointed purely on temporary basis does not have enforceable legal right which can be protected by issuing of mandamus.

In this regard, reliance has been placed on the Judgment of the Apex Court delivered in the case of State of Karnataka -vs- Uma Devi, reported in 2006 Vol. 4 SCC 1. Accordingly, this Court does

not find any merit in the writ petition and the same stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)