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to Ct.15
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rkd

W.P.A. 16093 of 2017

Sri Surajit Banerjee

-vs-

State of West Bengal & Ors.

&

W.P.A. 16094 of 2017

Sri Partha Sarathi Bhattachariya

-vs-

State of West Bengal & Ors.

&

W.P.A. 16096 of 2017

Sri Subrata Paul

-vs-

State of West Bengal & Ors.

Ms. Usha Maiti,
Ms. Anita Khatri,
Mr. Sakya Maity

....for the petitioners.

Ms. Chaitali Bhattacharya,
Mr. Kartick Chandra Kapas

....for the State in W.P.A. 16093 of 2017.

Ms. Chaitali Bhattacharya,
Mr. Subhendu Roychoudhury

....for the State in W.P.A. 16094 of 2017.

Ms. Chaitali Bhattacharya,
Md. Abu Reja Jaglul Kabir

....for the State in W.P.A. 16096 of 2017.

Three writ petitions are taken up together
since identical issue is involved therein.

The matters relate to grant of benefit of
compassionate appointment which was ultimately
accorded in favour of the three writ petitioners from
later date pursuant to appoint letters dated
January, 2015.

Ms. Maiti, learned advocate representing all the three writ petitioners has submitted that the petitioners were initially appointed on the death of their fathers in the year 2007 on contractual basis in Baidyabati Municipality (for short “said Municipality”). Since such appointment petitioners have been discharging their duties and according to the petitioners such appointment was accorded to them under compassionate ground not on substantive basis but on contractual basis. Since grant of substantive appointment in favour of the petitioners on compassionate ground was hanging for longtime which compelled one of the writ petitioners, namely, Subrata Paul to file a writ petition being the W.P. 12701(W) of 2011.

A coordinate Bench while disposing of the writ petition directed the concerned respondent authorities to consider the case of the petitioner for appointment in permanent post within a particular time. Pursuant to such direction of the coordinate Bench, the Director of Local Bodies, Government of West Bengal being respondent no.2 passed order dated 19th November, 2014 thereby directing the said municipality to grant approval in favour of the writ petitioners on compassionate ground from their respective dates of joining the posts under

Baidyabati Municipality subject to verification of necessary records. Accordingly, all the three petitioners were appointed in the post of teacher in primary schools administered and run by the said municipality and in this regard appointment letters were issued in favour of them in the month of January, 2015.

Petitioners have claimed benefit on substantive appointment which was ultimately accorded with effect from January, 2015 should be extended from the date of their initial appointment on contractual basis in the year, 2007.

It has been argued on behalf of the petitioners by Ms. Maiti that the coordinate Bench while disposing of the previous writ petition on 17th June, 2013 directed the respondent authorities to actively consider the claim of the petitioners for substantive appointment and in pursuant thereto the respondent no.2 while taking decision in favour of the petitioners directed the concerned authority of the said municipality to accord approval on substantive basis with effect from respective dates of joining in the post under the said municipality.

It is argued that considering such direction as contained in the order dated 19th November, 2014 of the respondent no.2, the approval of

appointment on substantive basis ought to have been accorded in favour of the petitioners with effect from the date when they were appointed on contractual basis. In support of the same reliance has been placed on the judgment of the Hon'ble Single Bench of Rajasthan High Court, reported in 2003 SCC Online (Raj) 75 (Dharmveer Sen -vs- Rajasthan State Road Transport Corporation & Ors.).

Ms. Bhattacharya, learned senior Government advocate appears on behalf of the State respondents and has defended the decision taken by the respondent no.2 as contained in the order dated 19th November, 2014. It has also been argued on behalf of the State respondents that the appointment of the petitioners on contractual basis should not be construed in a way which would confer right upon them to claim benefit of appointment on permanent basis with effect from 2007. According to the State respondents a decision has been taken by the respondent no.2 which permitted the municipality to give appointment in favour of the petitioners on compassionate ground prospectively and accordingly appointment has been given in favour of the petitioners by issuing appointment letters in

the month of January, 2015 with a rider that the petitioners have to obtain JB Training within five years from the dates of their respective appointment.

This Court has heard the learned advocates representing the parties and also perused the relevant materials on record.

It is indisputable that after the death of employees in-harness who were working in the said municipality the three writ petitioners were appointed on contractual basis on consolidated pay in the year 2007. The attention of this Court has also been drawn to one letter dated 8th September, 2010 issued by the Chairman of the Municipality addressed to the Deputy Director of Local Bodies, Chinsurah, Hooghly wherein it has been admitted that thirty three candidates were working on daily wage basis under compassionate ground however it is not clear whether the appointment of the petitioners on contractual basis with effect from 2007 has been treated as an appointment under compassionate ground or not since no one is representing the said municipality today in spite of notice.

This Court has also found from the order passed by the respondent no.2 wherein the

concerned authority of the said municipality was directed to accord approval in favour of the petitioners with effect from their respective dates of joining. Such direction as contained in the order dated 19th November, 2014 has raised a confusion whether appointment of the petitioners on contractual basis with effect from 2007 is to be reckoned or not. If it is found after considering the views of the said municipality that the petitioners were appointed on contractual basis in the year 2007 under compassionate ground in that event their claim for granting benefit of approval on substantive basis with effect from initial dates of appointment needs to be considered accordingly.

In view of aforesaid facts, this Court directs the Director of Local Bodies being the respondent no.2 to consider the entitlement of the petitioners to get the benefit of approval of appointment with effect from the dates when they were appointed on contractual basis by passing a reasoned order within a period of eight weeks from the date of communication of this order after granting opportunity of hearing of the petitioners or their representatives.

Before taking decision the respondent no.2 is further directed to ascertain from the said

municipality whether the appointment of the petitioners on contractual basis which was made in the year 2007 was under compassionate ground or not.

The decision to be taken by the respondent no.2 shall be communicated to the petitioners within one week thereafter.

The petitioners shall be at liberty to rely upon all the relevant documents including the judgment of the Court which has been placed before this Court today before the respondent no.2 at the time of hearing.

With the above direction the three writ petitions stand disposed of.

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.)