

23
01.09.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 18907 of 2022

**Dr. Dipankar Pramanik
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Tapas Kumar Bhattacharya,
Mr. Aviroop Bhattacharya,
Mr. Bishnu Prosad Singha Roy.
...For the Petitioner.**

**Mr. Alope Kumar Ghosh,
Mr. Arijit Dey.
...For KMC.**

**Ms. Koyeli Bhattacharya.
...For the Municipal Service
Commission..**

The petitioner is serving on contract in the post of Sub-Registrar in the Kolkata Municipal Corporation.

A recruitment notice has been published on 29th July, 2022 by the Municipal Service Commission for appointment of Sub-Registrar under the Kolkata Municipal Corporation. The age limit prescribed in the said recruitment notice is not more than 45 years on the first day of January 2022. The upper age limit is relaxable by five years in case of candidates who are serving on contractual basis in the Burning Ghat/Burial Grounds/Mortuary etc.

The petitioner is serving in the Burning Ghat on contractual basis under the Kolkata Municipal Corporation. According to the recruitment notice, he is over-aged by eight months.

The petitioner approached this Court on an earlier occasion in the year 2020 when steps were taken for filling up the post and the Court passed order on 7th February, 2020 in W.P. 1842 (W) of 2020 whereby the Commission was directed to accept the offline application of the petitioner upon relaxation of his age.

In compliance of the said order, the petitioner participated in the recruitment examination but he was not successful in the same.

The petitioner intends to participate in the present recruitment examination and seeks relaxation of the upper age limit.

The Court on the earlier occasion relied upon the judgment passed by the Larger Bench of this Court in the matter of Gobinda Chandra Mondal –vs- Principal, Rabindra Mahavidyalaya reported in 2013(1) CHN (CAL) 9 wherein the Court held that if the candidates are engaged on temporary basis having requisite qualification at the time of appointment and allowed to participate in the selection process, such candidates have a right to be considered provided their services are continuous and without any break in the vacancy of the substantive post.

In view of the law laid down by the Larger Bench of this Court, the petitioner may be permitted to participate in the recruitment process provided his service is continuous and without any break in the vacancy of the substantive post.

The Municipal Service Commission is, accordingly, directed to permit the petitioner to submit the offline application form within the time as specified in the recruitment notice and thereafter permit him to participate in the recruitment examination.

It has been submitted that the last date of submitting the application form is 4th September, 2022.

Steps shall be taken by the parties so that the petitioner can participate in the recruitment process.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)