

02.03.2022
Sl. No.6
srm

W.P.A. No. 11613 of 2020

Kuntal Bhattacharjee & Ors.

Versus

The State of West Bengal & Ors.

Mr. Arunava Ghosh,
Mr. Puspall Chakraborty,
Mr. Prisanl Ganguly

...for the Petitioners.

Mr. Mrityunjoy Goswami,
Mr. Parikshit Goswami

...for the Madhyamgram Municipality.

Affidavit of service is taken on record.

The petitioners submit that pursuant to an advertisement published by the Madhyamgram Municipality, the petitioners were engaged on contractual basis. Such engagement was made against the post of Tax Collecting Sarkar. Some petitioners were engaged sometime in 1999. Some of them were engaged in 2000 and one of the petitioners was engaged in 2008. The petitioner No.5 was engaged on contractual basis, but under the died-in-harness category on July 7, 2006.

It is submitted that the petitioners are continuing to serve uninterruptedly. The petitioner No.3 has since retired on February 28, 2022. The petitioners pray that they must be given equal pay with other Tax Collecting Sarkars, who had

been permanently engaged in the same establishment. In view of the fact that the petitioners possess the same qualification, are working in the same post and are discharging the same responsibility, such claim has been made. According to the petitioners, just because the petitioners were engaged on contractual basis, there should not be any discrepancy in the pay given to the petitioners and those Tax Collecting Sarkars, who had been permanently engaged in the establishment.

Mr. Mrityunjoy Goswami, learned Advocate appearing on behalf of the Madhyamgram Municipality, submits that the petitioners were engaged on commission basis and they did not have any right to claim the pay scales which were granted to the Tax Collecting Sarkars, attached to permanent posts in the establishment. The terms and conditions of employment were different. According to him, the right of regularisation is not a vested right upon the petitioners. Mr. Goswami submits that the letter of appointment contained a clause that the petitioners should not pray for regularisation.

It appears that the petitioners have made representations before the municipal authorities and lastly, a demand of justice was made before the Administrator of the Madhyamgram Municipality dated October 1, 2020.

Having heard the disputes raised herein, this Court is of the opinion that the competent authority of the Madhyamgram Municipality must dispose of the representation of the petitioners in accordance with law, upon hearing a representative of the petitioners and any other interested person involved in the dispute. The petitioners will be entitled to be represented by their learned Advocate at the time of hearing. The petitioners will be entitled to rely on documents in support of their contentions and also rely on decisions of this Court and also of the Hon'ble Apex Court in support of their cases. A reasoned order shall be passed and communicated to all concerned.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

This writ petition is, thus, disposed of.

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.)