

W.P.A. 5881 of 2017

**Atiar Rahaman & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Chittaranjan Chakraborty
Mr. Ram Prasad Chakraborty
Mr. Tanmoy Chakraborty
Ms. Mahesweta Mukherjee

....for the petitioners

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
Mr. Tirthankar Dey

...for the BMC

Mr. Jahar Lal De
Ms. Smita Das Dey

...for the State

Petitioners are claiming, *inter alia*, regularization on the strength of appointment letters which are annexed to this writ petition. It appears that the petitioners were appointed on purely temporary basis with fixed salary of Rs. 2500/- per month.

Mr. Chittaranjan Chakraborty, learned Advocate representing the petitioners submits upon drawing attention to the order dated 19th May, 2016 passed on six writ petitions by a coordinate Bench that on previous occasion the writ Court has appreciated the right of the petitioners to continue as Group-D employee of the Municipality which was not taken care of by the concerned authority of the Municipality and right of the petitioners have not been properly appreciated by the

Municipality. In addition thereto reliance has been placed on page 32 onwards of the writ petition to show that the petitioners were working even in the year 2017. Therefore, petitioners have rightly claimed regularization of their service by the Municipality in appreciation of their past service.

Mr. Sirsanya Bandopadhyay, learned advocate representing Bidhannagar Municipal Corporation has drawn attention of this Court to the report dated 7th March, 2017 wherefrom it appears that out of four petitioners Atiar Rahaman, Rahim Ali and Mustafa Biswas were paid their wages upto October, 2014, July, 2014 and August, 2014 respectively in appreciation of their service. In connection with the service rendered by Asgar Ali Piada it has been reported that he was paid his wages till August, 2014 and subsequently he rendered service and signed attendance register till 16th June, 2015 and it was found by the Municipal body that said Asgar Ali Piada was entitled to draw wages for the period from September, 2014 to June, 2015. It has also been stated in the said report dated 7th March, 2017 that after June, 2015 said Asgar Alia Piada neither reported for duty nor his services were utilized by the Corporation.

Having considered the submissions made on behalf of the respective parties and on perusal of the materials available on record including nature of appointment letters issued in favour of the petitioners and report

furnished on behalf of the Bidhannagar Municipal Corporation dated 7th March, 2017 question crops up whether in view of past service rendered by the petitioners prayer of the petitioners for regularization can be countenanced or not.

First of all, it transpires from the appointment letters that petitioners were appointed on purely temporary basis with fixed salary of Rs. 2500/- per month and according to the report furnished on behalf of Municipal body after 2014 in connection with services of Atiar Rahaman, Rahim Ali and Mustafa Biswas and after June, 2015 in connection with service of Asgar Ali Piada they either did not discharge their duty as temporary Group-D employee or they were not permitted to discharge duty since at the material point of time petitioners were not serving on substantive basis. Though faint attempt has been made on the part of the petitioners by relying upon documents annexed under annexure P4 that petitioners were serving as casual staff even in 2017 but it appears that there is nothing on record which goes to show that petitioners attended duty by signing on the attendance register or petitioners were paid their remuneration/wages during the period from 2016 onwards.

Considering the nature of appointment made in favour of the petitioners it appears that no enforceable

right has been created in their favour which can be protected by issuance of mandamus.

In this regard reliance is placed on the judgment of the Apex Court reported in **2006 (4) SCC 1 [State of Karnataka Vs. Uma Devi (3)]**.

Accordingly, the writ petition stands dismissed.

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.)