

20.09.2023  
Item No.28  
gd/ssd

WPA 7060 OF 2020  
MADHUMITA DUTTA & ORS.  
VS  
STATE OF WEST BENGAL & ORS.

Mr. Shuvro Prokash Lahiri,  
Mr. R. Naskar,  
Ms. Tithi Mazumder  
..for the Petitioners.

Mr. Aloke Kr. Ghosh,  
Mr. Subhrangsu Panda  
..for KMC.

Ms. Koyeli Bhattacharyya  
..for W.B. Municipal Service Commission.

Pursuant to the earlier direction by this Court, the affidavit-in-opposition has been filed by the Municipal Service Commission, which is taken on record.

The petitioners are claiming that they have been engaged as Laboratory Technicians under Kolkata Municipal Corporation. The petitioners claim that they have been rendering services for long period of time.

This writ petition has been filed praying for absorption and/or regularization of their engagements to the post of Laboratory Technicians with effect from their respective date of joining.

Mr. Ghosh, learned Advocate representing the Kolkata Municipal Corporation submits that a

similar issue was raised by similarly situated Laboratory Technicians and such issue has been decided by a judgment and order dated 21.06.2023 passed by the Hon'ble Division Bench in MAT 163 of 2021 in the case of *Kausik Ghosh and ors. v. State of West Bengal and ors.*

It would be relevant to take note of the observations made by the Hon'ble Division Bench at paragraphs 38 and 39 of the said judgment and the same are extracted hereinafter:

“ 38. It is true that the in view of the present law of the land, we cannot direct KMC to regularize the services of the appellants but the inhumane attitude of the MKC should be deprecated. They have appointed temporary workers on contractual basis not only beyond the prescribed recruitment rules but also against the relevant direction of the Hon'ble Supreme Court. From the records it transpires that the appellants have been performing their duties satisfactorily and, therefore, in my view the KMC should take the responsibility for such irregular appointment of the appellants beyond the prescribed recruitment rules and direction of the Hon'ble Supreme Court.

39. The Learned Single Judge was not properly assisted from this angle of the case and the Learned Single Judge has failed to appreciate the injustice caused to the appellants due to sheer incompetence of the KMC authorities. Moreover, a cursory glance over the relevant advertisement no, 14/2020 will further fortify this conclusion since it shows that though age relaxation for the post of Medical Officer (General) was allowed for the Medical Officers who have served on contractual basis under KMC, no such corresponding age relaxation was provided for the laboratory technician who were already on contractual services in the KMC. Therefore, the injustice to and discrimination against the

appellants are glaring and palpable. It is expected that a Court of law should not allow the KMC, a model employer, to become an unscrupulous employer. There is no reason for not extending the social security schemes to the appellants who are performing their duties satisfactorily at a lesser pay. We cannot shut out eyes to the services rendered by the persons like the appellants during Covid-19 and other emergent situations.”

After making the aforesaid observations and taking into consideration the present law of the land the Hon'ble Division Bench held that the prayer for regularization of the services of the appellants therein cannot be allowed. The Hon'ble Division Bench further directed that the present services of the appellants therein on contractual basis cannot be terminated till the age of 60 years respectively without formulating some reasonable social security scheme/beneficial scheme etc for their benefit.

The writ petitioners are similarly situated as the appellants in *Kausik Ghosh (supra)*. Therefore, the aforesaid decision shall squarely apply to the case of the petitioners.

Taking note of the directions passed in the case of *Kausik Ghosh (supra)*, this writ petition is disposed of in the light of the observations and directions passed in the said appeal.

The writ petition, accordingly, stands disposed of.

There will not order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

**(HIRANMAY BHATTACHARYYA, J.)**