

21.06.2023  
KC(5)

M.A.T. 1918 of 2019  
Sumon Roy  
-versus-  
State of West Bengal and Ors.

Mr. Kamalesh Bhattacharya,  
Mr. Anindya Bhattacharya.....For the appellant.

Mr. Biswabrata Basu Mallick.....For the State.

Mr. Bharat Chandra Simai.....For the respondent  
no. 5.

We have heard learned counsel for the parties at length. We have closely scrutinised the judgment and order dated 28<sup>th</sup> August, 2019 under appeal.

It is a well considered and well reasoned judgment.

The appellant who was engaged in 2010 as a typist in Raja Rammohan Roy Maha Vidyalaya in Radhanagar, P.O. Nangulpara, Hooghly on a temporary basis on daily wage payment condition, stakes his claim for permanent appointment. He states that he has worked for 13 years and is proficient in computer operation.

The fact is that although the post of typist in the said college is vacant, in 2018 the post has been declared as belonging to a dying cadre. However, we understand that incumbents in a dying cadre post in this State are allowed to work till the time of retirement, i.e. 60 years. Furthermore, it was submitted before us

that the appellant's wages are being paid from the contingency fund of the college.

We agree with the view of the learned single judge that the appellant is not entitled to regularisation. We observe and direct that since the appellant has worked on a temporary basis for 13 years in a post which belongs to a dying cadre, the Raja Rammohan Roy Mahavidyalaya which engaged him, will continue his services in the usual course of his terms of appointment.

Further, the Director of Public Instructions, Education Directorate, Higher Education Department, Government of West Bengal will consider within eight weeks of communication of this order by a reasoned decision the terms and conditions on which the appellant may be allowed to work in the same post till the age of 60 years, as a temporary employee of the college, whose wages/salary is to be paid by the State. Before arriving at the decision, the director may give a short hearing to the appellant.

The appeal (M.A.T. 1918 of 2019) is thus disposed of by modifying the impugned judgment and order dated 28<sup>th</sup> August, 2019 as above.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

