

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

Present :- Hon'ble Justice Amrita Sinha

**WPA 646 of 2022
Sukumar Barman**

Vs.

**The General Manager, HR, Human Resources Division & Ors.
With**

**WPA 662 of 2022
Bijoy Routh**

Vs.

**The General Manager, HR, Human Resources Division & Ors.
With**

**WPA 663 of 2022
Hirak Kr Paul**

Vs.

**The General Manager, HR, Human Resources Division & Ors.

With**

**WPA 664 of 2022
Debasish Roy**

Vs.

**The General Manager, HR, Human Resources Division & Ors.

With**

**WPA 665 of 2022
Dhananjoy Barman
Vs.**

**The General Manager, HR, Human Resources Division & Ors.

With**

**WPA 723 of 2022
Somraj Basfore**

Vs.

**The General Manager, HR, Human Resources Division & Ors.

With**

**WPA 724 of 2022
Bijay Basfore**

Vs.

The General Manager, HR, Human Resources Division & Ors.

For the writ petitioners	:-	Mr. Jagriti Mishra, Adv. Mr. Debajit Kundu, Adv. Mr. Debayan Goswami, Adv. Mr. Subham Gupta, Adv. Mr. Rishab Kumar, Adv. Mr. Raj Kumar Mitra, Adv. Ms. Ananya Bhattacharya, Adv.
For the respondents	:-	Mr. Utpal Saha, Adv.
Heard on	:-	02.03.2023
Judgment on	:-	02.03.2023

Amrita Sinha, J.:-

The cause of action in all the writ petitions being the same, the writ petitions are taken up for consideration together and are disposed of by this common judgment.

The premise on which the writ petitions have been filed is recorded in the order dated 10th March, 2022. As the respondent Bank remained unrepresented before the Court on the said date, the issue could not be conclusively decided.

The Court passed an interim order directing the Bank to allow the petitioners to participate in the recruitment process but the Bank was restrained from declaring the result of the recruitment process without leave of the Court. Direction was given for filing affidavit in the matter.

Affidavit has since been filed by the Bank wherein it has been disclosed that the petitioners, not being regular or contractual employees of the bank, will not get the benefit of the internal circular of the Bank relied upon by them.

The petitioners, admittedly, are age barred and as such, ineligible to participate in the recruitment process.

In support of condonation of the age bar in respect of in-service candidates, the petitioners rely upon the judgment delivered by the Larger Bench of this Court in *Gobinda Chandra Mondal –vs- Principal, Rabindra Mahavidyalaya* reported in (2013)1 CHN 9.

In *Gobinda Chandra Mondal (supra)*, the Larger Bench clearly laid down that no ad hoc or temporary appointee can be absorbed or regularized in any post in Government or Government-aided establishment de hors Recruitment or Service Rule ordinarily. If the appointment is made without undertaking selection procedure under Rule on ad hoc or temporary basis engaging the candidates having requisite qualification, in those cases, the candidates shall be allowed to compete and/or participate in the selection process along with other eligible candidates at the time of regular recruitment process condoning the age as they have acquired the right to be considered.

The petitioners have urged several other points challenging the advertisement for recruitment.

It appears that if the petitioners are able to overcome the issue of overage, then the other issues raised by them may be gone into.

To arrive at a decision as to whether the petitioners will get the benefit as in *Gobinda Chandra Mondal (supra)*, it has to be ascertained as to whether the petitioners were at all appointed or not.

From the documents annexed to the writ petitions, it appears that the petitioners did serve the Bank and were permitted to work, but no formal letter of appointment was ever issued in their favour.

It has been contended by the Bank that as and when the petitioners approached the Bank for work, the Bank allowed the petitioners to perform duty as Sweepers. No selection process was initiated for recruitment and

there is no record in the Bank with regard to the issuance of any appointment letter in their favour.

From the above, it appears that on request of the petitioners and as per the requirement of the bank, the petitioners performed duty in the bank but the same is not enough to come within the purview of the ratio laid down in Gobinda Chandra Mondal (supra). The petitioners are unable to overcome the hurdle of overage and hence cannot be permitted to participate in the recruitment process.

As the petitioners are not eligible to participate in the recruitment process being age barred, despite age relaxation granted in their favour, accordingly, there is no point in deciding the other issues raised by them.

No relief can be granted to the petitioners. The writ petitions, accordingly, fail and are hereby dismissed.

No costs.

Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)