

08-01-2024
ct no. 13
Sl. 15
sp

WPA 7651 of 2023
Shri Sankar Das & Anr.
-Versus-

The State of West Bengal & Ors.

Mr. Susanta Pal

...for the petitioners

Mr. Niladri Bhattacharya,
Ms. Angana Dutta

...for the corporation

1. The Court has considered the report filed by the respondent WBTC and the exception taken thereto.
2. The petitioners are bus drivers, working as contract employees within WBTC since 2010. They seek regularization of their service. It is argued as follows,
 - (a) The WBTC has regularized service of several Conductors, Foreman, D.O. from Clerk, Peons, Depot Cashier, Data Entry Operator and Maintenance Staff etc. in the year 2010.
 - (b) The service of a driver in a public transport corporation is a vital and integral part of discharge of its functions. The respondent Managing Director has admitted as such in the impugned order.

- (c) The two petitioners have put in 13 years of service as on date and after filing of the instant writ petition, two several persons, namely, Raj Hela and Nitish Anand, the conductors have been regularized pursuant to a direction of this Court to just consider their case.
 - (d) A public bus run by the WBTC gives a 50% incentive each to the driver as well as the conductor for every trip.
- 3. From the report filed by the WBTC it appears that the petitioners were not regularized along with other persons even until 2013 since 3 years was not enough for assessing the performance of the petitioners.
 - 4. It is further argued that the WBTC that it is dependent entirely on the funds advanced by the State and generates little funds of its own. Any order of regularization of the petitioners would open a floodgate of such requests from other similarly situate bus drivers. The WBTC does not have any funds to meet the full-time salary and statutory benefits payable to such regularized employees to the petitioners including the statutory deposit.

5. This Court has also considered the exception filed by the petitioners to the report of the WBTC. Admittedly, the petitioners as on date have completed 13 years of service. There is no allegation or blemish against the petitioners till date. The fact that the petitioners are being continuously engaged for 13 years indicates that their performance is satisfactory.
6. While it is true that there may be number of other drivers, conductors and other staff who have joined with the petitioners or thereafter have not been regularized till date. The petitioners appear to have made out a case for such regularization.
7. At the risk of repetition, it is stated that the services of a driver is fundamental and basic to the discharge of public duties by the WBTC. The petitioners, therefore, discharge vital public functions.
8. In the above circumstances, this Court is of the view that the petitioners are similarly situated with all such employees who have been regularized after at least 6 to 7 years of service in the WBTC.
9. For the reasons stated above, the petitioners have made out a case of unfair and unequal treatment vis-à-vis several other Conductors,

Cashier, Depot Manager, Maintenance Staff of the WBTC.

10. The petitioners have made out a case for regularization and are held to be entitled to the same.
11. The respondents are, therefore, directed by writ of mandamus to regularize the two petitioners in permanent service by the WBTC forthwith. Alternatively the WBTC shall be entitled to frame a scheme for regularization of all bus drivers and other employees similarly situated as that of the petitioners, within 4 months from the date of communication of a copy of this order. Upon such scheme being framed, the Finance Department of the State shall allocate necessary funds to meet the liability of the WBTC towards such scheme.
12. With the aforesaid directions, the writ petition shall stand disposed of.
13. There shall be no order as to costs.
14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)