

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

M.A.T. 1801 of 2023

With

CAN 1 of 2024

Atiar Rahaman & Ors.

vs.

The State of West Bengal & Ors.

For the Appellants

: Mr. Tanmoy Chakraborty
Mr. Ram Prasad Chakraborty
Mr. Bibek Chatterjee
Ms. Paramita Saha
Ms. Susmita Saha

For the State

: Mr. Jahar Lal De
Ms. Smita Das Dey

For the Municipality

(On virtual mode)

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

Heard on

: December 9, 2024

Judgment on

: December 9, 2024

DEBANGSU BASAK, J.:-

1. CAN 1 of 2024 is an application seeking condonation of delay in making
and filing the appeal.

2. For the ends of justice, the causes shown are accepted as sufficient and the delay in making and filing the appeal is condoned.

3. **CAN 1 of 2024** is **disposed of** accordingly.

4. Appeal is taken up for final hearing by consent of the parties.

5. Appeal is at the behest of the writ petitioners and directed against an order dated May 16, 2023 passed in W.P.A. 5881 of 2017.

6. By the impugned order, learned Single Judge dismissed the writ petition on the touchstone of the ratio of **(2006) 4 SCC 1 (State of Karnataka vs. Uma Devi (3))**.

7. Learned advocate appearing for the appellants draws the attention of the Court to the writ petition. He submits that the writ petitioners were appointed by a valid resolution of the Board of Councillors of the concerned municipality. The appellants are working. They are not being paid since 2015. Appellants were not retrenched.

8. Learned advocate appearing for the appellants relied upon **2024 INSC 199 (Mahanadi Coalfields Ltd. vs. Brajrajnagar Coal Mines Workers' Union)** in support of the contention that the appellants are entitled to be regularized.

9. State and the Municipality are represented.

10. Appellants filed a writ petition seeking relief with regard to regularization of their employment.

11. Prayer for regularization is governed by the principles enunciated in **Uma Devi (3)**. We repeatedly requested the learned advocate for the appellants to draw our attention to the fact as to whether the appellants were appointed against any sanctioned post through a selection process.

12. The answer is in the negative. There is no material to establish that the appointments were against sanctioned posts or through a valid selection process.

13. In **Mahanadi Coalfields Ltd.** (supra), Supreme Court noted the fact that in an earlier round of litigation under the Industrial Disputes Act, 1947 between the employer and employees, a conciliation meeting was held where the employer agreed to regularize to a portion of the employees engaged by a contractor. On such ground, Supreme Court noted that balance portions of the workers of the contractor were also entitled to regularized. Such facts scenario does not obtain in the present case.

14. In such circumstances, we find no merit in the present appeal.

15. **M.A.T. 1801 of 2023** is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

16. I agree

(Md. Shabbar Rashidi, J.)

