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ORDER SHEET
WPO No.232 of 2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DR. AVIJIT CHAKRABORTY
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 22nd March, 2024.

Appearance:
Mr. Arijit De, Adv.
...For Petitioner.

Ms. Koyeli Bhattacharyya, Adv.
...For WBMSC.

Mr. Alak Kumar Ghosh, Adv.
Ms. Tanushree Dasgupta, Adv.
Ms. Dipanwita Ganguly, Adv.
...for Kolkata Municipal Corporation

The Court:- The petitioner is serving on contract in the Burning Ghat in the post of Sub-Registrar under the Kolkata Municipal Corporation. He is presently 55 years of age.

A recruitment notice has been published on 23rd February, 2024 by the Municipal Service Commission for appointment of Sub-Registrar under the Kolkata Municipal Corporation. The age limit prescribed in the said recruitment notice is not more than 45 years on the first day of January 2024. The upper age limit is relaxable by five years in case of candidates who are serving on contractual basis Ghats/Burial Grounds/Mortuary etc. in the Burning Ghat/Burial Grounds/Mortuary etc.

The petitioner intends to participate in the present recruitment examination and seeks relaxation of the upper age limit.

The petitioner relies upon an unreported decision passed by this Bench on 1st September, 2022 in WPA/18907/2022 (Dr. Dipankar Pramanik vs. The Kolkata Municipal Corporation & Ors.), wherein under similar circumstances the Court permitted the petitioner therein to participate in the recruitment process.

Reliance has also been placed upon the judgement passed by the Larger Bench of this Court in the matter of Gobinda Chandra Mondal –vs- Principal, Rabindra Mahavidyalaya reported in 2013(1) CHN (CAL) 9 wherein the Court held that if the candidates are engaged on temporary basis having requisite qualification at the time of appointment and allowed to participate in the selection process, such candidates have a right to be considered provided their services are continuous and without any break in the vacancy of the substantive post.

In view of the law laid down by the Larger Bench of this Court, the petitioner may be permitted to participate in the recruitment process provided his service is continuous and without any break in the vacancy of the substantive post.

The Municipal Service Commission is, accordingly, directed to permit the petitioner to submit the offline application form within the time as specified in the recruitment notice and thereafter permit him to participate in the recruitment examination.

It has been submitted that the last date of submitting the application form is 6th April, 2024. Steps shall be taken by the parties so that the petitioner can participate in the recruitment process.

The Kolkata Municipal Corporation is directed to take steps for issuing no objection certificate in favour of the petitioner in the event there

is no impediment in doing so within a period of 48 hours from the date of communication of this order.

It is made clear that the instant order will be restricted only to the issue of age relaxation and the petitioner shall be obliged to comply all other formalities required for recruitment.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(AMRITA SINHA, J.)

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