

16.06.2026
Court No.652
Item No.27
Sayan

**WPA 12050 of 2025
CAN 1 of 2026**

**Tanaya Dasgupta Bhattacharya
Vs.
The State of West Bengal & Ors.**

Mr. Ekramul Bari,
Sk. Imtiaj Uddin

... For the Petitioner.

1. The petitioner is represented by Mr. Bari, learned advocate.
2. None appears for the respondent/State or the School Authority, in spite of service of notice.
3. Hence, the matter is being taken up for adjudication and disposal in absence of the said respondents.
4. In an elaborate order passed on 25th July, 2025, this Court has considered the factual background of the case which inter alia is that the petitioner has been working as the Assistant Teacher at the subject school since 2007. That, due to no selection process for recruitment of permanent teacher being carried out by the Authorities for about 18 years, the petitioner could not participate in any selection process within the prescribed age limit. Admittedly she has crossed the qualifying age limit for being appointed. She could appear and participate in the selection process beyond the prescribed age limit, by virtue of the liberty granted by the Court in the order as afore stated.
5. In the order dated 25th July, 2025, the Court considered the issue of relaxation of age bar of the petitioner in order to allow her to take part in in the selection process. The Court has ultimately directed

therein allowing the writ petitioner to take part in the selection process, by relaxing her age bar and has further directed the jurisdictional District Inspector of Schools (SE) not to take any final decision on the panel, till disposal of the instant writ petition.

6. Mr. Bari, learned Counsel appearing on behalf of the petitioner has submitted that the petitioner has taken part in the selection process as per the Court's order, which has been passed following the ratio decided in the judgment of the Hon'ble Full bench of this Court in ***Gobinda Chandra Mondal versus Principal, Rabindra Mahavidyalaya reported at (2013) 1 CHN 9***. That the writ petitioner has succeeded to secure her name in the panel. He has further informed that the panel is now for due approval of the concerned respondent authority, which will render the empaneled persons, including the petitioner to be appointed as regular teachers.

7. Issue still remains with regard to whether the petitioner would be entitled for relaxation of age at the time of approval of panel by the respondent authority as well as appointment of the empanelled candidates. The judgment of the Hon'ble Larger Bench of this Court in ***Gobinda Chandra Mondal (supra)*** is of ample guidance for this Court in this regard. The Court was considering the question whether a temporary/casual employee can be allowed to participate in the selection process after condoning his age bar as prescribed, in deviation of the recruitment Rules.

8. The following paragraphs are of importance –

“10. However, vexed question is whether in view of the aforesaid pronouncements of all the Authorities cited above relaxation of age bar can be allowed in absence of express provision in the recruitment rules. In other words whether any direction given by Court to relax age bar would be inoperative as being contrary to the recruitment rules so as

to render appointment being invalid as per the standard/norms laid down by the Supreme Court in Uma Devi's case or not. Before Uma Devi's case was rendered the views of the Courts were required to be surveyed. The Division Bench of this Court in the case reported in (1997) 1 CLJ page 501 held amongst other that the authority concerned could not refuse ad hoc and/or temporary appointee to be considered for appointment solely on the ground of overage under the Rule. The Supreme Court in case of U.P State Road Transport Corporation v. U.P Paribahan Nigam Shishukhs Berozgar Sangh reported in (1995) 2 SCC 1 in paragraph 12 of the report held amongst other while approving the appointment to the trainees, if age-bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the service rule concerned. If the service rules were silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given. In this decision it is clear that if the concerned service rules provide for relaxation of age bar and if it has to be given automatically and if the service rule is silent on this aspect then it would not be illegal for the Court to direct relaxation of age bar in a fit case.

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26. In view of the above discussion we conclude as follows:

No ad hoc or temporary appointee can be absorbed nor be regularized in any post in Government or Government-aided establishment de hors Recruitment or Service Rule ordinarily.

27. If the appointment is made without undertaking selection procedure under Rule on ad hoc or temporary basis engaging the candidates having requisite qualification namely age and education at the time of appointment against substantive post the candidates in those cases 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 right to be considered.”

9. No doubt the Hon’ble Larger Bench in the said judgment of **Gobinda Chandra Mondal (supra)** has considered the question regarding condonation of age bar vis-à-vis participation of the candidate in the selection process and not the question whether the empanelled candidate who is beyond the prescribed age can be appointed in the post, however, the Court can surely draw inference from the ratio decided by the Hon’ble Larger Bench in the said judgment. In case a person is allowed on the grounds as quoted above to take part in the selection process, he would definitely be eligible and allowed to be appointed, if succeeds in the selection process. The matter can only be brought to a reasonable and rational conclusion by allowing the person to be appointed on his success in the recruitment process and by no other or different means. A person who is allowed to take part in examination after relaxation of age bar, must be considered as an eligible candidate for appointment, in spite he has crossed the age limit, if he succeeds in the selection process.

10. There is yet another aspect of the matter. The petitioner has admittedly been serving the institution since the year 2007 and has continued to discharge her duties for a considerable period of time. It is not the case of the respondents that she lacked the requisite educational qualification or that she had contributed in any manner to the delay in initiation of the regular recruitment process. The situation has arisen solely because the authorities did not undertake regular recruitment for an unusually long period, resulting in the petitioner crossing the prescribed age limit. In such circumstances, to permit the petitioner to participate in the selection process after relaxing the age bar and

thereafter deny her appointment upon her success in the same process would lead to an arbitrary and self-defeating consequence. Such an interpretation would offend the constitutional mandate of fairness in State action embodied in Article 14 of the Constitution, for the petitioner would suffer a disqualification brought about not by her own conduct but by the inaction of the authorities themselves. Once the age bar stood relaxed for the purpose of enabling participation in the recruitment process and the petitioner thereafter succeeded on merit, the relaxation must necessarily extend to all consequential stages of the same recruitment exercise, including approval of the panel and appointment; otherwise the relief granted by the Court would be rendered illusory and the selection process itself would become an exercise in futility.

11. It is a settled principle that when law confers a substantive right, it also confers, by necessary implication, all powers and consequences required to make such right meaningful and effective. The permission granted to the petitioner to participate in the recruitment process after relaxation of age was not an end in itself but a means to secure fair consideration for regular appointment. The right of consideration would stand completely frustrated if, after successfully competing in the selection process, the petitioner was to be denied appointment solely on the very ground of age which had already stood condoned. Therefore, the relaxation of age granted for the recruitment process must be construed as extending to its logical culmination, namely approval of the panel and issuance of appointment.

12. Considering the facts and circumstances as discussed above, it is now found proper to dispose of the instant writ petition by directing the respondent no.3/District Inspector of Schools (SE), Kolkata to take steps in accordance with law for approval of the panel

submitted on 20th February, 2026 and pass necessary order, positively within a period of four weeks from the date of communication of this order, subject to the petitioner satisfying all other necessary criteria for appointment, for example, educational qualification, experience etc., excepting the criteria of age.

13. With the directions as above, the present writ petition stands disposed of. Consequently, CAN 1 of 2026 is also disposed of.

14. There will be no order as to costs.

15. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rai Chattopadhyay, J.)