IN THE HIGH COURT OF JUDICATURE AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

RESERVED ON: 07.05.2025
DELIVERED ON: 23.05.2025
PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH
W.P.A. 4521 OF 2025
SATYABATI HARIJAN
VERSUS
THE STATE OF WEST BENGAL & ORS.

Appearance:-

Mrs. Nandini Mitra, Adv.
Ms. Saloni Bhattacharya, Adv.
Ms. Gulsanwara Pervin, Adv.
Mr. Saikat Koley, Adv.

.....For the Petitioner

Mr. Tapas Kr. Ghosh, Adv.
Mr. Tanmoy Chowdhury, Adv.

.....For Respondent Nos. 2 to 9

Mr. Pradip Kumar Mondal, Adv.
Ms. Priyanka Mukherjee, Adv.

.....For the State.

JUDGMENT

Gaurang Kanth, J.

1. At the outset itself, this Court is constrained to express its serious concern over the current state of affairs wherein the integration of updated digital infrastructure, intended to bring about administrative efficiency and transparency, has instead resulted in transitional inefficiencies, thereby temporarily impeding the finalization of pension benefits for fourth-grade staffs. It is indeed disheartening that those who have devoted decades of

their lives in service to the State, particularly Class IV employees, are now being subjected to undue hardship and delay in receiving their rightful dues. Technology is a tool for advancement and should serve as a means to ease the burden of governance upon the citizenry. However, in the present batch of petitions, it appears to have become an obstacle rather than a facilitator. This Court fails to comprehend how a system designed for public welfare can operate in a manner so contrary to its intended objective. The authorities concerned cannot take refuge behind the excuse of a digital transition to justify administrative inaction or lapses.

2. This Court deems it appropriate to remind everyone concerned that pension is not an act of charity, but a legally enforceable right accrued by employees as a result of their long and dedicated service. Each employee earned it through years of honest labour. Any undue delay in the disbursement of pension, especially if occasioned by technological shortcomings or administrative lapses, is impermissible and contrary to the principles of equity, justice, and good governance. It is incumbent upon the State and its instrumentalities to ensure that the deployment of technological systems does not result in hardship or deprivation to entitled beneficiaries.

3. With the above sentiments duly noted, this Court shall now proceed to consider and determine the merits of the present batch of petitions.

Submission on behalf of the Petitioner

4. It is the case of the Petitioner that she was initially engaged as a casual worker in the Respondent Municipality on 01.01.1991. Thereafter, on 11.04.1991, the Finance and Establishment Standing Committee of the

Respondent Municipality adopted a resolution for the absorption of the Petitioner along with other similarly situated individuals against sanctioned vacant posts within the Municipality. The said resolution was subsequently ratified by the Board of Councillor on 20.04.1991. Pursuant thereto, the services of the Petitioner, in the capacity of 'Coolie', were formally confirmed on 01.03.1993. A service book was prepared in her name, akin to those of other similarly circumstanced employees, and she was extended all service-related benefits, including those under the Assured Career Progression (ACP) scheme.

5. Prior to her superannuation, vide Memorandum No. 112/HD-PS dated 06.01.2023, the Chairman of the Respondent Municipality informed the Petitioner that she would retire from service with effect from 30.11.2023 and was accordingly advised to approach the Establishment Section through the Health Department of the Municipality for facilitation of the pension sanction process. By way of the same communication, the Petitioner was directed to furnish her appointment letter, joining report, educational/technical qualification certificates, and birth certificate. The Petitioner, vide communication dated 19.01.2023, informed the Chairman of the Respondent Municipality that she was not in possession of the aforementioned documents. She stated that no appointment letter had been issued to her or to similarly placed individuals. The joining report is in the custody of the Respondent Municipality. Further, as no educational qualification was mandated for the post of 'Coolie', and given her illiteracy, the Petitioner does not possess any academic or technical certificates. Being a member of the

Harijan community, the Petitioner was also not in possession of a birth certificate.

6. The Petitioner was superannuated from service on 30.11.2023, drawing a last monthly salary of ₹40,971/-. However, due to discrepancies and mismatch in the designation of the post held by the Petitioner, no pension has been sanctioned in her favour to date. Aggrieved by the inaction, the Petitioner submitted a representation dated 23.01.2025 seeking the release of her pension and other retiral dues. However, no response has been forthcoming. The Petitioner, having rendered over 32 years of unblemished service, has approached this Court by way of the present Writ Petition, seeking appropriate relief.

7. The Petitioner has further asserted that pension and retiral benefits were released to other Coolies who had retired prior to the implementation of the i-OSMS system. However, due to the technical transition to the said system, employees like the Petitioner are now facing financial hardships due to non-disbursal of retiral dues.

8. Affidavits-in-Opposition have been filed by Respondent Nos. 2 to 9 (the Respondent Municipality) and Respondent No. 11 (the Director, Local Bodies).

Submission on behalf of Respondent No. 2-9 (Respondent Municipality)

9. Respondent Nos. 2 to 9, in their Affidavit-in-Opposition, have supported the claims of the Petitioner. It has been affirmed therein that the Petitioner, along with 147 similarly situated persons, was initially appointed to the post of 'Coolie' on 02.05.1991 by the then Chairman of the Respondent Municipality.

The said appointments were duly approved by the Finance and Establishment Standing Committee. The Petitioner and others regularly received monthly wages and continued in service until retirement on 31.10.2023. However, her pension and other retiral benefits have not been released to date.

10. It has further been stated that in August 2017, the Director, Local Bodies, West Bengal, informed all Municipalities of the development of an integrated Online Salary Management System (i-OSMS) for Urban Local Bodies pursuant to directives issued by the Urban Development and Municipal Affairs Department, Government of West Bengal. Subsequently, on 06.07.2018, the Officer on Special Duty and Ex-Officio Special Director, Directorate of Pension, Provident Fund and Group Insurance (DPPG), West Bengal, issued instructions regarding documentation required for timely disbursement of pensionary benefits.

11. On 13.09.2021, the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal, informed the Director, Local Bodies, that the e-pension facility for Municipal employees would be operational from 15.09.2021, and henceforth, all pension files were to be submitted via the e-pension portal; hard copies would no longer be accepted.

12. On 23.07.2019, the then Chairman of the Respondent Municipality submitted a proposal to the Director, Local Bodies, West Bengal, seeking re-designation of 148 existing employees including the Petitioner from the posts of Coolie, Dome, Methor, Trailorman, and Jharuyali to the post of 'Conservancy Worker', along with supporting documentation. Reminder

letters in this regard were issued by the Municipality on 08.11.2019, 25.11.2020, 04.11.2022, and 04.12.2023, requesting necessary action.

13. On 15.05.2024, the Director, Local Bodies, West Bengal, raised certain queries and sought further documentation in support of the re-designation request. The requisite information was furnished by the Respondent Municipality vide communications dated 07.06.2024 and 23.07.2024. Notwithstanding submission of all required information, no consequential action has been taken by the Director, Local Bodies with respect to re-designation of the Petitioner and others.

14. Meanwhile, eight retired employees among the aforesaid group of 148, whose re-designation was also pending, approached this Hon'ble Court by way of Writ Petitions. Pursuant to the orders passed by this Hon'ble Court, the Director, Local Bodies, vide order dated 21.06.2024, permitted the re-designation of six of the said employees, following which their retiral dues and pension were released.

15. The Respondent Municipality, vide communication dated 29.08.2024, requested the Director, Local Bodies, to extend similar benefits to all remaining similarly situated employees. However, no positive response has been received till date.

Submissions on behalf Respondent No. 11 (Director, Local Bodies)

16. Respondent No. 11 (Director, Local Bodies) has filed its Affidavit-in-Opposition, contending inter alia that although the Petitioner was absorbed as a Coolie, the said post is not a sanctioned post in accordance with the staffing pattern prescribed for Municipalities. As such, the Petitioner and

other similarly placed persons were categorized as 'unapproved employees' in the i-OSMS portal. It was further stated that the re-designation proposal was incomplete, as the Respondent Municipality failed to submit details of the "man in position" in respect of all Group-D employees as on the date of the proposed re-designation. According to the said Respondent, it is not feasible to determine the availability of vacant sanctioned posts of Conservancy Worker without this information.

17. It was further submitted that, in terms of the provisions of the West Bengal Municipal Employees' Death-cum-Retirement Benefit Rules, 2023, the Chairman of the Respondent Municipality is the designated Pension Sanctioning Authority as well as the Pension Payment Authority. The Pension Payment Order is issued by the DPPG, while the Directorate of Local Bodies is responsible for verification of service records and pay details of the concerned employees.

Legal Analysis

18. This Court has heard the arguments advanced by the Ld. Counsel for the parties and perused the documents.

19. This case exemplifies a clear instance of administrative negligence, wherein various instrumentalities of the State are engaged in shifting blame onto one another. Regrettably, the ultimate victims of this bureaucratic blame-shifting are the retired employees who dedicated over three decades of loyal and uninterrupted service to the Respondent Municipalities. Following their retirement, they have been left without access to their lawful retiral dues and

pension. This distressing situation has arisen solely due to the abdication of responsibility and lack of coordination among the Respondents. Such conduct not only undermines the rule of law but also reflects a disturbing disregard for the rights and dignity of retired public servants, who deserve to be treated with respect and fairness in the twilight of their lives.

20. In the present case, the following facts are admitted by all the parties:

(i) The Petitioner, along with 147 other similarly situated employees, were appointed as a Class IV employees by the Respondent Municipality during the period 1991–1992, with the approval of the competent authority.

(ii) The Petitioners were absorbed against a post which was not a sanctioned post in accordance with the staffing pattern prescribed for Municipalities.

(iii) All these 148 employees have been continuously working with the Respondent Municipality for a period of approximately 30–35 years and have been receiving monthly salaries.

(iv) No objection was ever raised by any authority or individual regarding their continuance in service.

(v) All of them were treated as permanent employees of the Municipality for all purposes and were granted benefits available to permanent employees.

(vi) The Petitioners are entitled to receive pension and other retiral benefits in accordance with law.

(vii) However, the said pension and retiral benefits have not been released to the Petitioners on the ground that their details cannot be entered into

the i- OSMS portal, as they were not shown to be working against any sanctioned post.

(viii) It is submitted that the aforesaid benefits can be released to the Petitioners only upon their re-designation as 'Conservancy Workers' and the consequent updating of their service details in the i-OSMS portal.

(ix) The Respondent Municipality, through various letters, requested the Director, Local Bodies, to re-designate the said 148 Class IV employees as Conservancy Workers.

(x) The Director, Local Bodies, vide letter dated 15.05.2024, sought additional documentation. The Respondent Municipality submitted all the available documents.

(xi) In pursuance of an order passed by this Court, the Director, Local Bodies, re-designated six similarly situated employees as Conservancy Workers, whereupon their pension and other retiral dues were released.

21. Upon perusal of the record, it is evident that the only impediment in re-designating the Petitioners and other similarly situated persons as 'Conservancy Workers' arises from a miscommunication between the Respondent Municipality and Respondent No. 11. It is the case of Respondent No. 11 that the Respondent Municipality has failed to submit details regarding the "man in position" status of all Group-D employees as on the date of the proposed re-designation. According to Respondent No. 11, in the absence of this information, it is not feasible to ascertain the availability of vacant sanctioned posts for the purpose of re-designation as 'Conservancy

Workers'. On the other hand, the Respondent Municipality contends that all available and relevant documents have already been submitted.

22. Be that as it may, this Hon'ble Court is of the considered opinion that pension and other retiral benefits, once earned by an employee after rendering long and continuous service, ought not to be delayed, even by a single day. Delay in such cases causes undue hardship to the retired employees, who depend on these dues for their sustenance.

Accordingly, this Court issues the following directions:

(i) The Respondent Municipality is directed to furnish all the requisite information and documents, as sought by Respondent No. 11 in its communication dated 15.05.2024, within a period of one week from the date of pronouncement of this judgment.

(ii) Upon receipt of the said information, Respondent No. 11 shall process the same and take appropriate steps for re-designating all the similarly situated employees, including the Petitioners, as 'Conservancy Workers'. This process shall be completed within a period of two weeks from the date of receipt of the necessary information from the Respondent Municipality.

(iii) In the event that sufficient vacant sanctioned posts are not available to accommodate the petitioners and other similarly situated persons, the Respondent Municipality shall create supernumerary posts for the said purpose, to the extent necessary, for accommodating all 148 such persons.

(iv) Upon completion of the re-designation process, the Respondent Municipality is directed to take immediate steps for the release of pension and other retiral dues to the Petitioners and all other similarly situated employees, in accordance with law, preferably within a period of 4 weeks thereafter.

23. In view of the foregoing discussion and directions, this Court reiterates that administrative inefficiencies or inter-departmental communications cannot be permitted to prejudice the rights of employees who have served the Respondent Municipality for decades. The right to pension is not a bounty but a vested right earned through years of dedicated service. Any further delay in granting the legitimate retiral dues to the Petitioners and similarly situated persons would be wholly unjustified and contrary to the principles of fairness and equity.

24. With these observations and directions, the writ petition stands disposed of. Compliance of this order shall be ensured within the timelines stipulated herein above.

(Gaurang Kanth, J.)

SAKIL AMED (P.A.)