IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

RESERVED ON: 05.08.2025
DELIVERED ON: 16.09.2025

PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH

WPA 28373 OF 2024

SUDEB DUBEY

VERSUS

THE STATE OF WEST BENGAL & ORS.

Appearance:-

Mr. Srikanta Dutta, Adv.
Mr. Prodyut Kumar Ray, Adv.
..... for the Petitioner.

Ms. Rupsa Chakraborty, Adv.
Mr. Indrajit Ghosh, Adv.
..... for the State.

Mr. Usof Ali Dewan, Adv.
Mr. Asif Dewan, Adv.
.....for the respondent no. 5.

JUDGMENT

Gaurang Kanth, J. :-

1. The Petitioner has preferred the present writ petition challenging the inaction of the Respondent authorities in not sanctioning the pension and other retiral benefits to the Petitioner despite the fact that the Petitioner has retired from service on 31.10.2020, after rendering 33 years of unblemished service.

2. The facts leading to the present case is as follows:

3. The Petitioner was initially appointed as Trade Tax Collector, Jiaganj Azimganj Municipality, on a casual basis vide appointment letter dated 05.08.1987. Subsequently, the Petitioner was appointed as Clerk Food

License with effect from 04.10.1988, in the pay scale of Rs. 300-10-400-15-565-20-685, vide appointment letter dated 04.10.1988, and he duly joined service on 06.10.1988.

4. The Municipal Authorities, vide letter No. 989/En/II-I/J.A.M dated 29.08.2008, requested the Director of Local Bodies, West Bengal, to accord permission for absorption of pre-1992 casual workers of the said Municipality. Pursuant to the said request, the Director of Local Bodies, West Bengal, vide Memo No. 2733/DLB/P-503/13-05 dated 22.12.2008, accorded permission for filling up eight (8) sanctioned posts by absorption of pre-1992 casual workers, on the basis of their seniority and qualifications.

5. Thereafter, the Board of Councillors of the said Municipality, in its meeting dated 17.02.2009, unanimously resolved that in terms of the permission granted by the Director of Local Bodies, West Bengal, on 22.12.2008, eight (8) pre-1992 casual workers would be absorbed as permanent employees of the Municipality. Accordingly, a list of eight such casual workers was prepared, wherein the Petitioner's name appeared at Serial No. 3.

6. Consequent thereto, the Petitioner was absorbed permanently vide Memo No. 220/II/I/J.A.M dated 20.02.2009, in the post of Lower Division Clerk, and he resumed his duties on 02.03.2009.

7. After rendering 33 years of continuous and satisfactory service, the Chairman of the Respondent Municipality, vide letter dated 15.04.2020, intimated the Petitioner that he would retire on attaining the age of superannuation on 31.10.2020. The Petitioner duly submitted all requisite documents to the Respondent Municipality well in advance, prior to his retirement. He was thereafter superannuated with effect from 31.10.2020.

However, till date, neither has the Pension Payment Order (PPO) been issued, nor have his retiral dues been released, save and except an ad hoc pension amount of Rs. 9,225/-.

8. The Petitioner, vide letter dated 29.10.2024, requested the Chairman of the Respondent Municipality to take immediate steps for the release of his retiral benefits. Despite such representation, no steps have been taken by the Respondent Municipality for disbursal of his legitimate pensionary benefits. Being aggrieved by such inaction and arbitrary deprivation of his statutory rights, the Petitioner has been constrained to prefer the present Writ Petition.

Submission on behalf of the Petitioner

9. Learned Counsel for the Petitioner submits that the Petitioner has rendered more than three decades of continuous service with the Respondent Municipality. His service was regularized and made permanent pursuant to the Resolution of the Board of Councillors dated 17.02.2009, and on the basis of the approval granted by the Director of Local Bodies. Accordingly, the Petitioner is entitled to receive full retiral benefits, including pension. Denial of such benefits, despite long and uninterrupted service, is arbitrary, discriminatory, and violative of Article 14 of the Constitution of India.

10. Learned Counsel for the Petitioner further places reliance on the judgment delivered by a Coordinate Bench of this Hon'ble Court in *WPA No. 4320 of 2023*, wherein, in the case of another employee of the Respondent Municipality, it was categorically held that the employee was entitled to pension and all retiral dues. The said judgment was affirmed by the Hon'ble Division Bench in *MAT No. 723 of 2024*. The present Petitioner,

being similarly situated and identically circumstanced as the petitioner in *WPA No. 4320 of 2023*, is entitled to the same relief.

Submission on behalf of the Respondent No. 2 (Director of Local Bodies)

11. *Per contra*, learned Counsel for Respondent No. 2 submits that, as per the Service Book of the Petitioner, he was appointed as Lower Division Clerk in pursuance of the resolution of the Board of Councillors dated 17.02.2009, in the pay scale of Rs. 3,350–6,325, with effect from 02.03.2009, albeit without the prior approval of the State Government. The Petitioner retired on 31.10.2020, whereafter the Municipal Authorities submitted his Service Book and other connected documents for verification on 05.12.2024. Subsequently, vide letter dated 27.01.2025, Respondent No. 2 directed the Municipal Authorities to furnish the requisite approval of the State Government with regard to the Petitioner's appointment. In response, the Municipal Authorities, vide letter dated 28.02.2025, categorically stated that no such approval had been obtained from the State Government in respect of the Petitioner's appointment.

12. It is the specific contention of Respondent No. 2 that, in terms of Section 54 of the West Bengal Municipal Act, 1993, prior Government approval is a mandatory precondition for appointments made by a Municipality. Since, in the present case, no approval of the State Government was ever obtained in respect of the Petitioner's appointment, the Petitioner's claim for release of pensionary benefits cannot be sustained, and consequently, no pension can be disbursed in his favour.

Submission on behalf of the Respondent No. 5 (Respondent Municipality)

13. Respondent No. 5 admitted the factual aspects as narrated by the Petitioner. The Respondent Municipality also admitted the fact that the

Petitioner's appointment was based on the approval of the Board of Councilors.

Legal Analysis

14. This Court heard the submissions advanced by the learned counsel for the respective parties and perused the records placed before it.

15. The material facts are not in dispute. It stands admitted that the Petitioner was initially appointed as Trade Tax Collector, Jiaganj Azimganj Municipality, on a casual basis, vide appointment letter dated 05.08.1987. Pursuant to Memo No. 2733/DLB/P-503/13-05 dated 22.12.2008, the Director of Local Bodies, accorded permission to the Municipal Authorities to fill up eight sanctioned posts by absorption of pre-1992 casual workers, on the basis of their seniority and qualifications. In furtherance thereof, the Board of Councillors of the said Municipality, in its meeting held on 17.02.2009, unanimously resolved to absorb eight pre-1992 casual workers. The Petitioner was one of such employees absorbed pursuant to the said Resolution. By Memo No. 220/II/I/J.A.M dated 20.02.2009, the Petitioner was permanently absorbed in the post of Lower Division Clerk and resumed duties on 02.03.2009. The Petitioner superannuated from service on 31.10.2020.

16. The case of Respondent No. 2 is that the Petitioner is not entitled to pension and other retiral benefits on the ground that his appointment was made without the prior permission of the State Government.

17. This Court finds, however, that the absorption of the Petitioner, along with seven other pre-1992 casual workers, was effected pursuant to the Resolution dated 17.02.2009 of the Board of Councillors, which was itself based on the permission granted by the Director of Local Bodies, West

Bengal, vide Memo No. 2733/DLB/P-503/13-05 dated 22.12.2008. It is not the case of the Respondents that the Petitioner lacked either the requisite qualification or seniority for absorption. The Petitioner was appointed against a sanctioned vacant post pursuant to a unanimous Resolution of the Board of Councillors. The requirement of obtaining further approval from the State Government must, in the circumstances, be regarded as a procedural formality. The omission of the Municipal Authorities in this regard cannot be attributed to the Petitioner, nor can he be deprived of his legitimate entitlements on account of such lapse. It is an admitted position that the Petitioner has rendered more than ten years of qualifying service, which satisfies the statutory requirement for grant of pension. Accordingly, this Court is of the considered view that the Petitioner cannot be denied pension and other retiral benefits merely on account of the procedural omission of the Municipal Authorities.

18. Similar view has been taken by the coordinate bench of this Court, in an identical case vide order dated 09.10.2023 in WPA 4320/2023, directed for the release of the Pension. The relevant portion of the said Judgment reads as follows:

> *"The DPPG submits that the petitioner will not be entitled to pension as he was a causal employee and his service was not approved by the Government.*
>
> *The petitioner has relied upon the communication of the Director of Local Bodies dated 22nd December, 2008 which mentions about absorption of pre '92 casual workers.*
>
> *It has been mentioned that the Governor was pleased to accord permission for filling up eight sanctioned vacant posts for absorption of pre '92 casual workers on the basis of seniority and qualification.*
>
> *Relying upon the aforesaid sanction of the State Government, the office of the councilors of the Municipality issued fresh appointment letter in favour of the petitioner in the year 2009.*

Admittedly, the petitioner remained in service from 1987-88 till he attained his normal age of superannuation of 2019.

The service of the petitioner being approved by the Government, the Director of Local Bodies, at this stage, cannot refuse to release pension in favour of the petitioner.

Learned advocate appearing for the Municipality submits that all the documents of the petitioner have been forwarded to the office of the Director of Local Bodies on several occasions and the last reminder was sent on 14th July, 2023.

The respondent authorities are, accordingly, directed to take steps for releasing the terminal benefits of the petitioner at the earliest, but positively within a period of three months from the date of communication of this order.

In the event finalization of the pension documents take time, then the authorities shall consider releasing provisional pension in favour of the petitioner within a period of sixty days from the date of communication of this order.

The Director of Local Bodies shall forward all documents to the Director, Pension, Provident Fund and Group Insurance so that the terminal benefits may be released in favour of the petitioner at the earliest.

Consequential steps shall be taken by the DPPG for issuance of the pension payment order.

Gratuity, provident fund and the other terminal benefits shall be released at the earliest.

Report in the form of affidavit filed by the Joint Director of Local Bodies and the exception thereto filed by the petitioner are taken on record. The writ petition stands disposed of."

The said Judgment was challenged further before the Hon'ble Division Bench in MAT No. 723/2024 and the said appeal was dismissed. The relevant portion of the Hon'ble Division Bench reads, as follows:

"10. Admittedly, respondent No.1/writ petitioner was working as a temporary employee since 1987 in the service of the respondent Municipality. By Memo. No.2733/DLB/P-503/13-05 dated 22.12.2008, State accorded permission to fill up 8(eight) sanctioned vacant posts by absorption of pre-1992 casual workers on the basis of their seniority and qualification. Pursuant to such approval, respondent/writ petitioner was appointed in the post of Lower Division Clerk and rendered services for more than ten years. It is true no prior approval of his appointment had been obtained from the

> *Government. This was an omission on the part of the Municipality which ought not deprive the respondent no.1/writ petitioner of his right to pension as he was otherwise eligible to pension having served for ten years that is the qualifying service for pension as per rules.*
>
> *11. We are further persuaded to come to this conclusion as the appointment of respondent no.1/writ petitioner was against a sanctioned post after approval had been accorded by the Government for absorption of casual employees as per seniority and qualification.*
>
> *12. In this backdrop, subsequent approval for appointment of respondent no.1/writ petitioner is a technical formality and cannot be a ground to refuse pensionery benefits. In fact, by order dated 08.08.2022, the Director, Pension, Provident Fund and Group Insurance, Government of West Bengal recorded his satisfaction that respondent no.1/writ petitioner was entitled to pension.*
>
> *13. For these reasons, we are not inclined to interfere with the impugned order."*

19. This Court finds that the present case is squarely covered by the decision of a Coordinate Bench of this Court in W.P. No. 4320 of 2020, which has since been affirmed by the Hon'ble Division Bench in MAT 723 of 2024.

20. In view of the aforesaid, the writ petition stands allowed. Respondent No. 2 is directed to verify the service records of the Petitioner within a period of two weeks from the date of receipt of this order. Upon such verification, the Director, Provident Fund and Pension and Group Insurance (DPPG), together with the Municipal Authorities, shall take necessary steps for release of the Petitioner's pension and other retiral dues at the earliest, and in any event, not later than a period of three months. It is further clarified that in the event the Respondents fail to adhere to the timelines prescribed herein, the Petitioner's retiral dues, including pension and gratuity, shall carry interest at the rate of 6% per annum from the date of retirement until the date of actual disbursement.

21. The writ petition is, accordingly, disposed of. There shall be no order as to costs.

(Gaurang Kanth, J.)

SAKIL AMED (P.A)