

WPA 8749 of 2020

**Sri Swapan Chatterjee
Vs.
The Baidyabati Municipality & Ors.**

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Mr. Partha Sarkar
... For the Petitioner

Mr. Basudeb Gayen
... For the Baidyabati Municipality

The petitioner is a retired employee of the Baidyabati Municipality. He was appointed in service on 1st September, 1988 and he attained his age of superannuation on 30th June, 2020.

The petitioner alleges that after his retirement the Municipality has not paid his retiral dues. The petitioner made several representations requesting disbursement of his terminal dues but none of the representations have been answered by the authority.

The petitioner prays for direction upon the Municipality for releasing his terminal dues.

Learned advocate representing the Municipality submits that the retiral dues of the petitioner are to be paid by the State Government. As the State Government did not provide the necessary funds, the dues of the petitioner could not be cleared.

The West Bengal Municipal (Employee's Death-cum-Retirement Benefits) Rules, 2003 lays down the mode and manner for processing pension cases which is to be followed by the municipal authority.

Rule 29 lays down that the municipal authority, on receipt of the formal application for pension, shall immediately prepare the pension

papers after due scrutiny and verification of the service claimed and the emoluments actually drawn, and forward the same, along with the necessary documents, to the Director or to the Officer/Officers authorized by him in this behalf.

Rule 30 lays down the steps that are to be taken by the Director of Pension, Provident Fund and Group Insurance and it mentions that the Director or an officer or officers authorized by him on this behalf, on receipt of pension papers from the Municipality, shall scrutinize and determine the admissibility of pension and gratuity on the basis of pension papers and issue Pension Payment Order in respect of an employee of the Municipality before three months from the date of retirement. The Director shall issue an authority for payment of gratuity.

It further lays down that the pension shall be paid by the municipal authority through a nationalised bank or from the office of the Municipality.

Rule 32 lays down the provision for payment for provisional pension. It says that the provisional pension, including gratuity, at the rate not exceeding 50% of the amount of the pension, including gratuity, as may prima facie be admissible, may be sanctioned by the pension sanctioning authority at his discretion for a period of six months or till the pension is sanctioned, whichever is earlier, in all cases where the pension papers after due scrutiny and verification have not been forwarded to the Director before the date of retirement of the employee. While forwarding the pension papers a copy of the order sanctioning the payment of provisional pension, including gratuity, shall be sent to the Director along with the pension papers. The provisional pension, including

gratuity, shall be subject to adjustment with the amount of pension, including gratuity, finally sanctioned.

It appears that in the instant case the Municipality has not yet taken any step to forward the pension papers of the petitioner to the Director.

The petitioner has rendered service in the Municipality for a period of thirty two long years. It is highly illegal and improper on the part of Municipality in not taking steps to process his retirement dues. An employee is legally entitled to receive all his retirement dues immediately upon retirement.

In view of the above, the Municipality is directed to process the pension papers of the petitioner immediately and take necessary steps for payment of provisional pension, including gratuity, to the petitioner till the final pension is paid to him.

The Municipality shall pay the provisional pension, including gratuity, to the petitioner within four weeks from date.

All necessary pension papers of the petitioner shall be forwarded to the Director of Pension, Provident Fund and Group Insurance within a period of four weeks from date. The Municipality shall ensure that all the retirement dues of the petitioner is cleared positively latest within a period of six months.

WPA 8749 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)

