

WPA 4122 of 2018

Smt. Maya Mitra Mustafi (Chatterjee)
Vs.
The State of West Bengal & Ors.

Mr. Sudipta Dasgupta
Mr. Anath Nath Naskar
Mr. Arka Nandi

...for the petitioner

Mr. Soumya Banerjee
...for the Kamarhati Municipality

Mr. Asish Kr. Guha
Mr. Naren Ghosh Dostidar
...for the State

Petitioner has claimed approval of appointment on compassionate ground, since such appointment has been made in her favour by the concerned authority of Kamarhati Municipality (hereinafter referred to as “the said Municipality”) pending approval by the appropriate authority. The petitioner being daughter of the deceased employee of the said municipality was favoured with appointment letter dated 8th March, 1995 issued by the Chairman of the said municipality wherefrom it appears that the petitioner was appointed on compassionate ground since her father died-in-harness, in the post of peon on and from 10th March, 1995 on a regular scale of pay of Rs. 800-1265/- with all other admissible allowance as per rule. Subsequent to such appointment granted in favour of the petitioner till date petitioner is working under the said

municipality and meanwhile more than 20 years have passed. Question arises for consideration as to how the petitioner's service was not formally approved by the concerned respondent authorities.

Mr. Sudipta Dasgupta, learned advocate representing the petitioner has drawn attention of this Court to one memo dated 26th October, 2017 issued by the Director of Local Bodies, West Bengal, being the respondent no. 3, whereby said respondent no. 3 asked the Chairman of the said municipality to supply certain documents for consideration of grant of formal approval in favour of the petitioner. It further appears that such memo dated 26th October, 2017 was issued by the respondent no. 3 in response to a memo dated 18th August, 2017 issued by the Chairman of the said municipality relating to approval of appointment of the petitioner.

Mr. Dasgupta has relied upon pages 30 and 31 of the writ petition wherefrom it further appears that the respondent no. 3 on 23rd April, 2010 approved the appointment of 42 candidates in the said municipality on compassionate ground in sanctioned vacant posts. It is the contention of the petitioner since 42 similarly circumstanced candidates have been favoured with appointment on compassionate ground why the case of the petitioner has been left out in the year 2010 taking into consideration the petitioner has been working with effect from 1995.

The municipal authorities is represented by Mr. Soumya Banerjee, learned advocate who has submitted that there was no requisite resolution of the Board of Councillors in support of appointment of the petitioner on compassionate ground and such appointment was not on permanent basis. Accordingly, the claim of the petitioner has been opposed on behalf of the said municipality.

State-respondents are represented by Mr. Naren Ghosh Dostidar, learned advocate and has relied upon a letter of the petitioner dated 21st June, 2017 whereby the petitioner has requested the Chairman of the said municipality to treat her appointment as clerk instead of daily rated typist with the condition that if appointment of the petitioner is treated in the post of clerk she is also ready to forego her arrear dues.

This Court has heard the learned advocates representing the parties and perused the relevant materials available on record. It appears from appointment letter dated 8th March, 1995 that the petitioner was appointed in the post of peon with effect from 10th March, 1995 on compassionate ground on regular pay scale pursuant to the resolution adopted in the meeting of the Board of Councillors dated 29th January, 1995. If such appointment letter dated 8th March, 1995 is found to be correct then this Court fails to understand how submission has been made on behalf of the said municipality that the petitioner was

not appointed pursuant to a valid resolution of the Board of Councillors.

Be that as it may, since it emanates from memo dated 26th October, 2017 that the respondent no. 3 has taken steps to consider the claim of the petitioner for sanction of approval and directed the Chairman of the said municipality to forward the necessary documents, this Court finds it proper to direct the respondent no. 3 to take a decision on the claim of the petitioner relating to grant of approval of her appointment which has already been made by the municipality vide letter dated 8th March, 1995.

The respondent no. 3 is directed to take a reasoned decision after granting opportunity of hearing to the petitioner or her representative and the representative of the said municipality.

While taking decision the respondent no. 3 shall also be at liberty to ask for necessary documents relating to the service of the petitioner and the said municipality shall also extend all sorts of cooperation to the respondent no. 3 for arriving at a conclusion on the aforesaid issue.

Such decision to be taken by the respondent no. 3 within a period of 8 (eight) weeks from the date of communication of this order and subsequently communicate the decision to the petitioner within 1 (one) week thereafter.

At the time of hearing writ petitioner shall be at liberty to rely upon all the relevant documents including

grant of approval in favour of 42 similarly circumstanced candidates by the respondent no. 3 on 23rd April, 2010.

With the aforesaid direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)