

Item No. 38

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

18.10.2023
Ct-24

WPA 2855 of 2023
Bimal Kumar Adhikari

v.

The State of West Bengal & Ors.

Mr. Firdous Samim
Mr. Gopa Biswas
Ms. Payel Shome
Ms. Sampriti Saha
Mr. Avijit Kar
Ms. Mohona Das
... for the petitioner.

Mr. Saptarshi Kumar Kundu
... for the Municipality.

The petitioner is a retired employee of Santipur Municipality. He claims to be appointed as an Estimator on April 1, 1986 on a pay scale of Rs. 280-617. The petitioner retired from service on attaining his normal age of superannuation on February 28, 2021.

The petitioner has not been paid his terminal benefits allegedly on the ground that his service was not approved by the Government.

According to the petitioner there is no requirement of approval of his service in view of Section 66 of the West Bengal Municipal Act, 1932.

It has been submitted that sanction and approval of the State Government is required only when the appointment of a person is to a post with a basic pay above Rs. 750 at the start or if the scale of basic pay goes above Rs. 1000/- by increment.

The petitioner submits that his initial scale of pay was less than Rs. 750 and accordingly there is no requirement for sanction or approval of the State Government.

Learned advocate representing the Municipality, however, submits that all documents of the petitioner were forwarded to the Director of Local Bodies and as the Director of Local Bodies disapproved the prayer of the petitioner, accordingly, the terminal benefits cannot be disbursed.

From the documents annexed to the writ petition it appears that the Director of Local Bodies by a communication dated September 3, 2021 addressed to the Chairman of the Municipality requested the Municipality to depute one competent staff to take delivery of the service book and resubmit the same after taking necessary action from his end.

The Municipality again forwarded the service documents of the petitioner seeking post facto approval. Presently, the submission of the petitioner is that post facto approval will not be required.

As the petitioner contends that post facto approval is not required to be obtained, leave is granted to the petitioner to file a comprehensive representation relying upon the provision of law which exempts approval/sanction from the State Government.

In the event, such a representation is filed before the Director of Local Bodies, the same shall be considered in accordance with law after giving reasonable opportunity of hearing to the petitioner or his authorized representative and to the representative of

the Municipality within a period of eight weeks from the date of receipt of the representation.

A reasoned order shall be passed and communicated to the petitioner. If it ultimately transpires that the petitioner will be entitled to benefit as claimed, then steps shall be taken to disburse the same at the earliest.

The writ petition stands disposed of.

Affidavit-off-service filed in Court today is taken on record.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)