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09.10.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 4320 of 2023

**Samir Khan
-versus
The State of West Bengal & Ors.**

**Mr. Srikanta Datta.
...For the Petitioner.**

**Mr. Lalit Mohan Mahata,
Mr. Ziaul Haque.
...For the State.**

**Mr. Usof Ali Dewan,
Mr. Asif Dewan.
...For the Respondent
Nos. 3, 4 and 5.**

The petitioner is a retired employee of Jiaganj-Azimganj Municipality. He was engaged on causal basis in the year 1987. Thereafter, his service stood approved by the Government in the year 2009. He retired from service on attaining his normal age of superannuation in the year 2019.

The petitioner is aggrieved as terminal benefits have not been released in his favour.

It appears from records that the Director, Pension, Provident Fund and Group Insurance clearly observed that the service of the petitioner as regular employee of the Municipality can be considered on and from the date of his approval in the year 2009. On his retirement, the total length of qualifying service of the petitioner is 10 years and 8 months.

The DPPG records that according to paragraph 5(1) of the West Bengal Municipal (Employees Death-cum-Retirement Benefits) Rules, 2003, an employee is entitled to receive pension after completion of 10 years satisfactory service.

The Director opined that the Pension Sanctioning Authority should accord sanction for pensionary benefit in favour of the petitioner and forward all the papers to the Director, Pension, Provident Fund and Group Insurance.

The DPPG submits that the petitioner will not be entitled to pension as he was a casual 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.

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

(Amrita Sinha, J.)