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16.05.2023
d.p.

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

W.P.A 4149 of 2022

**Kuntal Purkait & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Ekramul Bari,
Sk. Imtiaj Uddin.
...For the Petitioners.**

**Mr. Srinath Singha Roy.
...For the State.**

**Mr. D.N. Roy,
Ms. Sayani Roy Chowdhury.
...For UOI.**

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

The present writ petition has been filed by two petitioners by depositing only one court fees.

Learned advocate appearing for the petitioners is directed to deposit the deficit court fees in respect of one petitioner in course of the day failing which the order passed herein below will be restricted only in favour of the petitioner no. 1 and the writ petition shall be deemed to have been dismissed in respect of the petitioner no. 2.

The petitioner no.1 was temporarily appointed as Family Planning Welfare Worker by the Chairman, North Dum Dum Municipality by letter of appointment

dated 10th August, 1996 on the recommendation of the selection committee appointed by the Director of Health Service, Family Welfare Bureau under Family Planning and Welfare Scheme sponsored by the Government of India on certain terms and conditions.

Similarly the petitioner no.2 was appointed as Store Keeper-cum-Clerk-cum-Accountant on the same date and in the same manner as that of the petitioner no.1.

As per the letter of appointment, the service of the petitioners is not a municipal service but an employment under Family Planning and Welfare Scheme sponsored by the Central Government of India. Confirmation of service under the scheme may be made after one year of satisfactory service. The State Government Service Rules is applicable to the petitioners subject to entitlement of the scale of pay.

The grievance of the petitioners is that till date their service has not been confirmed by the State Government.

By a communication dated 11th February, 2013, the Chairman, North Dum Dum Municipality forwarded the prayer of the petitioners seeking confirmation to the Director of Local Bodies.

In the said request letter, the Chairman specifically mentioned that as per the order of the Deputy Director of Health Services/Government of West Bengal dated 5th December, 1995, the Municipality published notices inviting applications from eligible candidates.

Nineteen applications for the post of officers and staff were forwarded to the Deputy Director of Health Services for arranging interview and preparation of panel list. Four selection committees were formed by the State Family Welfare Office and the said committee prepared panel for both the posts. The panel was forwarded for issuing letter of appointment to the selected candidates.

It has been admitted that the petitioners were selected in their respective posts and they joined service in the month of August 1996.

The petitioners requested the Municipality to take up the issue and, accordingly, the Municipality forwarded the request of the petitioners to the Director of Local Bodies.

Further representation was also filed on behalf of the petitioners before the Director of Local Bodies in November 2021 but the same has not been answered.

The petitioners pray for a direction upon the Director of Local Bodies for confirmation of their service.

Learned advocate appearing for the Director of Local Bodies and Ex- Officio, Joint Secretary to the Government of West Bengal, Urban Development and Municipal Affairs Department has forwarded instructions to the learned advocate mentioning that the service of the petitioners is not municipal service and he was an employee under the Family Planning and Welfare Scheme of the Central Government of India. He was appointed by the Directorate of Health Service.

The specific contention is that the staff under the Family Planning and the Welfare Scheme is not considered as Government employee and, as such, the question of confirmation does not arise.

Learned advocate appearing for the Union of India relies upon the appointment letter issued in favour of the petitioners wherein it has been clearly mentioned that the State Government service rules will be applicable.

It has been contended that apart from funding the scheme, the Union of India does not have any responsibility with regard to the employees under the said scheme.

Upon hearing the submissions made on behalf of the parties and upon perusal of the documents placed before this Court, it is evidently clear that the State Government ought to take the responsibility of the petitioners who were appointed under the recommendation of the Director of Health Services, Family Welfare Bureau.

The scheme in question may be funded by the Central Government but that does not imply that the employees under the scheme will be the employees under the Central Government.

The letter of appointment clearly mentions regarding confirmation under the scheme after one year of satisfactory service. By this time, the petitioners have already put in more than 25 years of service in the Municipality. The period after which confirmation of

service ought to have been made is one year from the date of appointment. The said period is long over.

It is high time that the State Government takes a decision with regard to the prayer of the petitioners for confirmation in service. The State Government cannot disown their responsibility and liability to confirm the service of the petitioners.

In view of the above, the instant writ petition is disposed of by directing the Director of Local Bodies to take immediate steps for consideration of the prayer of the petitioners for confirmation in service in accordance with the relevant scheme and in terms of the letter of appointment issued in their favour.

If required, the Director of Local Bodies may afford an opportunity of hearing to the petitioners, the Municipality and all other necessary parties prior to taking a decision in the matter.

A decision shall be taken at the earliest but positively within a period of twelve weeks from the date of communication of this order and the reasoned order shall be passed and communicated to the petitioners immediately thereafter.

Learned advocate appearing for the petitioners is directed to forward copy of the appointment letter, the recommendation made by the North Dum Dum Municipality on 11th February, 2013 and the representation filed before the Director of Local Bodies in November 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)