

03
12.07.2023
d.p.

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

**W.P.A 11976 of 2022
with
IA No. CAN 1 of 2023**

**Prasanta Kumar Das
-versus
The State of West Bengal & Ors.**

**Ms. Susmita Saha Dutta,
Mr. Asit Kumar Manna,
Mr. Niladri Saha.
...For the Petitioner.**

**Mr. Sirsanya Bandopadhyay,
Mr. A.K. Nag,
Ms. Deboleena Ghosh.
...For the Municipality.**

**Ms. Tuli Sinha.
...For the State.**

In Re: CAN 1 of 2023

An application has been filed by the Municipality seeking modification of the order dated 8th June, 2023.

The applicants seek modification of the recording in the 2nd paragraph of the said order.

The application contains documents to show that the Municipality forwarded a list of posts which are lying vacant arising out of death and retirement of employees of the Municipality upto 31st October, 2016 seeking approval before the Director of Local Bodies on 13th November, 2019.

The post to which the petitioner seeks promotion, i.e. establishment clerk-in-charge, is one of the posts which was forwarded to the Director of Local Bodies seeking approval.

It has been submitted that the recording was made on 8th June, 2023 on the basis of oral submission made from the bar but after receipt of documents, the said recording is required to be modified.

Upon hearing the parties and upon perusal of the documents annexed to the application, it appears that the 2nd paragraph of the order dated 8th June, 2023 requires modification.

It is recorded that the Municipality has forwarded the list of various categories of posts lying vacant to the Director of Local Bodies seeking approval and the same is pending consideration till date.

In the last line of the 1st page of the order dated 8th June, 2023 the words **“of the petitioner”** be deleted.

The application stands disposed of.

In Re: WPA 11976 of 2022

Learned advocate appearing for the State respondents has obtained instruction from the Director of Local Bodies and submits documents to show that the Director of Local Bodies, West Bengal and Commissioner, UD and MA Department vide communication dated 3rd December, 2019 intimated the Chairman of the Municipality that the approval for

appointment of 13 appellants is accorded notionally with effect from their respective dates of appointment as shown in annexure 'B' to the post mentioned against them in annexure 'A' in compliance of the judgment of the Hon'ble High Court dated 29th January, 2018 in AST 242 of 2014 with ASTA 187 of 2014.

It appears from annexure 'A' to the said communication that the petitioner's service has been approved in the post of work assistant.

It appears from the submissions made on behalf of the parties that presently the issue is with regard to the promotion of the petitioner to a higher post than that of the clerk.

According to the Municipality, the said post will be the 'establishment clerk-in-charge' equivalent to the upper division clerk. Proposal for approval of appointment in the vacant posts including the post of establishment clerk-in-charge is pending consideration at the end of the Director of Local Bodies.

The Director of Local Bodies is directed to take a decision on the basis of the documents forwarded by the Raiganj Municipality in March 2023 appearing at pages 15 to 19 of the application being CAN 1 of 2023.

It appears that the communication dated 14th March, 2023 by the Chairperson, Board of Administrator, Raiganj Municipality was made in response to the communication made by the Deputy Secretary, Department of Urban Development and Municipal Affairs on 20th December, 2022.

The Director of Local Bodies is directed to take a decision in the matter at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order.

In the event the Director of Local Bodies approves appointment to the post to which the petitioner is seeking promotion, then the case of the petitioner may be taken up for consideration for promotion, if the law permits to do so.

It will be open for the Municipality to follow up the matter with the Director of Local Bodies seeking approval to fill up the posts.

The Municipality is directed to forward all documents seeking approval to fill up the vacant posts to the Director of Local Bodies at the earliest.

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.)