

Item No.9

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

19.04.2023
Ct-24

WPA 17391 of 2022
Sri Rupam Sengupta
v.
The State of West Bengal & Ors.

Mr. Avishek Prasad
... for the petitioner.

Mr. Sougata Mitra
Ms. Ankita Dey
... for the Purulia Municipality.

Mr. Sk. Mujibar Rahman
Mr. Benazir Ahmed
... for the State.

The petitioner was issued a letter of appointment by the Chairman, Purulia Municipality on December 24, 2019. The letter mentions that the service of the petitioner is confirmed and the petitioner is appointed as Group-‘C’ staff of Purulia Municipality and allowed the pay scale (PB-2) Rs. (5,400-25,200) + 2,600/- with admissible allowance w.e.f December 8, 2009.

The grievance of the petitioner is that the monthly remuneration of the petitioner is presently Rs. 7,000/- only. The petitioner alleges discrimination and submits that similarly circumstanced employees of the Municipality are paid remuneration higher than that of the petitioner.

The further case made out by the petitioner is that, though, the remuneration of the petitioner is only Rs. 7,000/- per month but the Municipality is not

paying the petitioner on regular basis. He is receiving part payments. The total remuneration of Rs. 7,000/- is hardly paid every month.

Prayer has been made to direct the Municipality to pay the petitioner the prescribed scale meant for Group-‘C’ employees along with arrears and interest on account of the delayed payments.

Learned advocate representing the Municipality submits that the petitioner is a casual employee of the Municipality. He was engaged on casual basis against a post not sanctioned by the Government. It has been admitted that the consolidated remuneration of the petitioner at present is Rs. 7,000/- per month.

The Municipality contends that a request was made before the Director of Local Bodies for regularization of the service of the petitioner. As the service of the petitioner has not yet been approved by the Director of Local Bodies, accordingly, it is not possible for the Municipality to pay proper scale of pay to the petitioner.

Neither of the parties has placed before this Court as to how the petitioner was engaged in the post of Group-‘C’ under the Municipality.

The Municipality submits that there was no selection process pursuant to which the petitioner was appointed. The petitioner was engaged on casual basis for performing the works of the Municipality.

As no regular selection process was initiated at the time of engagement of the petitioner, accordingly, the petitioner ought not to claim regularization of his service. The Court cannot pass any order of

regularization or even pass order for consideration of the prayer for regularization of service of an employee cherry-picked by the Chairman.

Regular scale of pay cannot be directed to be paid in case of casual employees appointed without undertaking a regular selection process against unsanctioned posts.

The consolidated remuneration of the petitioner is Rs. 7,000/- per month. The petitioner submits that similarly circumstanced person has been paid more. It is for the employer to take a decision about the remuneration to be paid to an employee. The Court ought not to interfere in such matter.

Since the Municipality is an instrumentality of the State, accordingly, the Municipality ought to act in a rational manner in the matter of fixation of remuneration in respect of the employees. The Municipality ought not to pay a higher amount to a particular candidate and make only part payment to others. The Municipality ought to ensure that all its employees are paid on regular basis.

The Director of Local Bodies allegedly did not approve the service of the petitioner. The State Government ought not to approve the service of any employee not appointed in accordance with law.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

The Municipality shall, however, act in accordance with the observations made hereinabove.

Exception filed by the petitioner to the report filed by the Municipality be 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.)