

18.12.2023
Court No. 13
Item No. 6
AP

WPA 20286 of 2023

**Manotosh Kumar Saha
Vs.**

Kolkata Metropolitan Development Authority and Ors.

Mr. Tulshi Das Ray
Mr. Tirthankar Roy

.... For the Petitioner.

Mr. Tapan Mukherjee
Ms. Sangeeta Roy

... For the State.

Mr. Satyajit Talukder

... For the KMDA.

1. The petitioner claims that he worked as Accounts Officer with the erstwhile Kolkata Metropolitan Water & Sanitation Authority (hereinafter referred to as “the KMW&SA”). The said KMW&SA was merged along with Kolkata Improvement Trust (hereinafter referred to as “the KIT”) into the Kolkata Metropolitan Development Authority (hereinafter referred to as “the KMDA”). The merger was effected pursuant to notification published in the Kolkata Gazette on 31st March, 2017 by West Bengal Act No.XIV of 2017.

2. Despite the merger of the three organizations, the cadres and respective personnel departments could not be merged. No common cadre could be evolved. The issues are pending reference before a Larger Bench of this Court as directed by a Co-ordinate Bench in its order dated 11th September, 2023 in **WPA 6688 of 2022 (Sri Dipankar Dasgupta & Ors Vs. The State of West Bengal & Ors.)**.

3. The petitioner held the post of Accounts Officer with the KMW&SA. Section 6 Sub-clause 2(f) of the merging Act notified in the gazette notification aforesaid, inter alia, provides officers and employees of the authority continuing in office before the repealing of the KMW&SA Act shall be deemed to employed by the KMDA. Their conditions of service shall be no less advantageous to that of the employees of KMDA.

4. Since after proposal of creating 70 new posts in 1986 one such post was that of Assistant Finance Officer. The petitioner is the only candidate available from the former KMW&SA for the post of Assistant Finance Officer (AFO).

5. After approving the creation of the posts of AFO including that of the petitioner, the KMDA, vide a resolution in its 130th meeting, sought formal approval under Section 93(2)(f) of the erstwhile KMW&SA Act, 1966 from the State Government. The said approval is pending.

6. It appears to this Court that the petitioner may be the only eligible candidate from the former KMW&SA having four years experience and would entitled to promotion with effect from 9th February, 2021. But for the sanction from the State Government the promotion would have been effected long back.

7. In the above circumstances, this Court directs the Principal Secretary, Urban Development Department, to take an appropriate and affirmative decision regarding the

petitioner's promotion to the post of Assistant Finance Officer.

8. Since the issue of merger of service conditions, cadres and reckoning of seniority and other matters is pending consideration before a Large Bench, the detailed recruitment and promotion rules for all other posts including that of Assistant Finance Officer may be finalized later.

9. This Court directs expedition on the part of the Principal Secretary, Urban Development Department, since the post is very vital for the functioning of the sanitation department of the KMDA now. There are a large number of Central and State projects that require implementation with appropriate inputs from an Assistant Finance Officer. It is undesirable that the post is filled up from a deputationist from the State service as was being done until 2001. The post is lying vacant admittedly since 2001.

10. Let a decision be taken by the Principal Secretary, Urban Development Department within a period of two months from the date of communication of a copy of this order.

11. With the aforesaid directions, the writ petition is disposed of.

12. There shall be no order as to costs.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)