

Item No. 21

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

11.10.2023
Ct-24

WPA 22641 of 2022
Joydev Char

v.

The State of West Bengal & Ors.

Mr. Sarwar Jahan
Mr. S.N. Thander
... for the petitioner.

Mr. Lalit Mohan Mahata
Mr. Rudranil De
... for the State.

The petitioner is serving as Tax Collecting Sarkar under the Asansol Municipal Corporation.

A regular recruitment process was initiated by the Niamatpur Notified Area Authority and concluded by the Kulti Municipality.

The petitioner was sponsored by the Employment Exchange and a formal letter of appointment was issued in his favour by the Municipality. He is in service from 1997 and he is due to attain his normal age of superannuation in December 2023. The petitioner is being paid his salary in accordance with the scale of the Government.

The Kulti Municipality subsequently stood merged with the Asansol Municipal Corporation and consequently the petitioner is presently an employee of the Asansol Municipal Corporation. The Asansol Municipal Corporation recommended the name of the petitioner for approval of his appointment. On account of

non-approval of the appointment of the petitioner, his pension paper cannot be processed.

A report has been filed by the Deputy Director of Local Bodies wherein it has been mentioned that the petitioner was appointed as Tax Collecting Sarkar with effect from April 26, 1997 by the Kultu Municipality and accordingly he comes under the purview of the GO No. 111/UDMA-25011(11)/109/2022-LSG SEC dated February 6, 2023. The sanctioned staff strength and the vacancy position of the Urban Local Body is not known at the time of his appointment. Six posts of Tax Collecting Sarkar were created for Niamatpur Notified Area Authority in 1983.

The report further mentions that relevant documents pertaining to the process of recruitment is not available. The document relating to the approval of the Board of Councillors is also not available. The documents relating to the interview letter, appointment letter and the joining letter of the petitioner are, however, available with the records.

The deponent has mentioned that the case of the petitioner may be considered if the Asansol Municipal Corporation recommends the same with the approval of the Board of Councillors.

It appears from the report filed by the Deputy Director of Local Bodies that the interview letter, appointment letter and the joining letter of the petitioner were taken into consideration but, for the reason best known, the letter seeking approval by the Asansol Municipal Corporation forwarded to the Director of Local Bodies in the year 2015 has been ignored.

The name of the petitioner appears against serial no. 1 in the request for approval forwarded by the Corporation. The candidate whose name appears against serial no. 2 in respect of the selfsame recommendation letter has already been approved by the State respondents.

Admittedly, the respondent authorities have utilized the service of the petitioner from the year 1997. A regular selection process was initiated pursuant to which the petitioner was appointed. After rendering service for nearly twenty six years, the authorities ought not to take the stand that on account of unavailability of relevant documents, the case of the petitioner cannot be considered or the consideration of his approval be delayed.

An employee is entitled to receive terminal benefits immediately upon retirement. There is a little more than two months left prior to the petitioner attaining his age of superannuation. Any delay on the part of the respondents to approve the appointment of the petitioner will result in delay of processing his pension file and other terminal benefits.

In view of the above, the instant writ petition is disposed of by directing the Director of Local Bodies to take immediate steps for approving the appointment of the petitioner after taking into consideration the recommendation letter issued by the Asansol Municipal Corporation in his favour in the year 2015.

As the candidate appointed against serial no. 2 of the selfsame recommendation has already been approved, necessary documents from the file of the said

employee (Partha Chakraborty) may also be verified to process the case of the petitioner.

Steps shall be taken in the matter at the earliest but positively within a period of six weeks from the date of communication of this order.

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.

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(Amrita Sinha, J.)