

Ml- 07.03.2024
267 Ct.15
rkd

W.P.A. 707 of 2013

Asit Kumar De & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Subir Kumar Banerjee,
Mr. Falguni Banerjee

....for the petitioners.

Mr. Sandipan Banerjee,
Mr. Sobhan Majumder

....Purulia Municipality.

Petitioners were appointed in Purulia Municipality and the names of the petitioners are present in the draft gradation list of the said Municipality against Serial Nos.1, 40 & 41. The said gradation list is annexed to the writ petition at pages 28 & 29.

It has been submitted on behalf of the learned advocate representing the petitioners that out of three petitioners, petitioner no.3 is still working in the Municipality and petitioner nos. 1 & 2 have retired. In the writ petition the order of the Director of Local Bodies being respondent no.2 is assailed which has been communicated to the Chairman of the Municipality by the respondent no.2 vide memo dated October, 2012.

Petitioner relies upon the Government Order dated 6th February, 2023 issued by the Additional Secretary to the Government of West

Bengal, Department of Urban Development and Municipal Affairs whereby amendment has been made to the previous two Government Orders dated 7th May, 2009 and 19th August, 2009. According to the petitioners the said Government Order dated 6th February, 2023 confers right upon them to be treated as employees appointed on substantive basis on regular scale of pay.

The writ petition is heard in presence of the learned advocates representing the petitioners and Purulia Municipality.

It has been submitted by Mr. Banerjee, learned advocate representing the Municipality that the petitioners were appointed against the sanctioned vacancies and they were placed on regular scale of pay; that being the reason names of the petitioners featured in the draft gradation list which is annexed to this writ petition.

However, today no one is representing the State respondents.

Having considered the submissions made on behalf of the parties and in consideration of the Government Order dated 6th February, 2023 issued by the Additional Secretary, it appears that the employees of the Municipality who are not coming under the purview of Section 54(1) of the West

Bengal Municipal Act, 1993 appointment /promotion of whom are required to be approved with effect from 1st October, 2003 in view of the amendment made to sub-section (3) of Section 54 of the West Bengal Municipal Act, 1993 but in the present case all the three petitioners were appointed prior to 1st October, 2003.

Furthermore, amendment has also been brought in by the State Government Order dated 6th February, 2023 to the Government Orders dated 7th May, 2009 and 19th August, 2009 thereby declaring the concerned authority of the State Government to be authorised to treat the appointment of employees of the Municipalities who were appointed within the prescribed date prior to 1st October, 2003 as regular appointment provided the employees were appointed by the Municipalities against the sanctioned posts.

In view of issuance of Government Order dated 6th February, 2023 the order of the Director of Local Bodies which was communicated vide memo dated October, 2012 stands set aside thereby the Director of Local Bodies being the respondent no.2 is directed to revisit the issue and to take decision in the light of the aforesaid Government Order dated 6th February, 2023 within

a period of eight weeks from the date of communication of this order after granting opportunity of hearing to the petitioners or their representatives and the representative of Purulia Municipality by passing a reasoned order.

The order to be passed by the respondent no.2 shall be communicated to the petitioners within one week thereafter.

While taking decision it will be open to the respondent no.2 to call for the records relating to appointment of the petitioners from Purulia Municipality and in the event requisition is sent to the Municipality the said Municipality shall be under the obligation to produce the relevant documents relating to engagement of the petitioners which are available on record.

With the aforesaid directions the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)