

208 26.02.2024
NB Ct. 24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 12629 of 2023

Subhas Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Sayan Banerjee,
Ms. Suparna Dutta.
..for the petitioner.

Mr. Rudranil De,
Mr. Monoranjan Mahata.
...for the respondent no.3.

The writ petitioner is a retired employee of Ashokenagar-Kalyangarh Municipality. He was initially appointed in the year, 1993 and thereafter his service was regularised by the Municipality in the year, 2009. He retired on attaining his normal age of superannuation in the year, 2020. The petitioner seeks terminal benefits.

Learned advocate representing the Municipality submits, upon instruction that, the municipality sought for approval of appointment of the petitioner from the Director of Local Bodies in the year, 2009 when his appointment was regularised and further representation was submitted before the Director of Local Bodies in the year, 2021 after the petitioner retired from service seeking post-facto approval of the appointment of the petitioner. None has been answered by the Director of Local Bodies.

It appears that the Director of Local Bodies has not been impleaded as party respondent in the instant writ petition. The department of Municipal Affairs has, however, been impleaded as party.

For ends of justice, leave is granted to the learned advocate on record of the petitioner to implead the Director of Local Bodies as party respondent in the instant writ petition.

The formality of serving a copy of the writ petition upon the added respondent stands dispensed with as the State is represented by the learned advocate.

As it appears that the Municipality has already requested the Director of Local Bodies seeking post-facto approval of appointment of the petitioner, accordingly, the instant writ petition is disposed of by directing the Director of Local Bodies to take a decision on the request made by the Municipality for according post-facto approval to the appointment of the petitioner in accordance with the relevant rules at the earliest but positively within a period of twelve weeks from the date of communication of this order.

The Director of Local Bodies is directed to afford opportunity of hearing to the representative of the Municipality for production of documents in support of the approval. The petitioner may also be afforded a reasonable opportunity of hearing. A final order shall be passed and communicated to the Municipality and the petitioner.

At the time of consideration it shall be kept in mind that the petitioner served the municipality without any break since his joining in the year 1993 till his superannuation in the year

2020. The petitioner was paid salary in the proper scale. Denying post facto approval after such long tenure of service would be highly unjust and unfair.

In the event, the Director of Local Bodies approves the appointment of the petitioner, then consequential steps shall be taken for disbursement of his terminal dues.

The writ petition stands disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Amrita Sinha, J.)