

05.12.2024

Item No. 2

Dd

MAT/1153/2024
With
IA NO: CAN/1/2024

AROBINDA KUMAR GHOSH AND ORS.
VS.
THE KOLKATA MUNICIPAL
CORPORATION AND ORS.

Mr. Kallol Basu,
Mr. Suman Banerjee, Advocates
... ... For the Appellants

Mr. Alok Kr. Ghosh,
Mr. Arijit Dey, Advocates
... ... For the KMC

1. Appellants assails the order dated March 14, 2024 passed in WPA 13616 of 2024.
2. Appellants approached the writ Court claiming promotion initially from the post of Junior Assistant to Assistant based on Circular No. 57/VIII/2012-13 dated December 10, 2012 issued by the Deputy Municipal Commissioner (Personnel) of KMC.
3. The writ petition of the appellants was dismissed by the impugned order dated March 14, 2024.
4. In course of hearing of the appeal, learned advocate for the appellants submits that, a resolution dated September 25, 2013 of the Kolkata Municipal Corporation in Agenda No. 41 Item No.8 resolved to remove anomalies between Junior Assistant (1985 batch) and typist which occurred during promotion to the next higher post.

He submits that, the resolution was not given effect to. He also submits that Corporation be directed to act in terms of resolution dated September 25, 2013 Agenda 41 Item No.8 therein.

5. This submission on behalf of the appellants was made on previous dates of hearing. At such hearing, learned advocate appearing for the Corporation submitted that, such case was not made out in the writ petition and was sought to be urged for the first time in the appeal itself.
6. Since, the documents dated September 25, 2013 on the basis of which, the appellants advanced the contention was available before the learned Single Judge, we deem it appropriate to allow the appellants to canvassed such points in the appeal also.
7. We also requested the learned advocate for the Corporation to take instructions as to whether the resolution spoken of by the appellants was implemented or not.
8. Learned advocate for the Corporation submits on instructions that Corporation inadvertently did not implement the resolution dated September 25, 2013 Agenda No. 41 Item No. 8 therein.
9. Agenda No. 41 Item No. 8 of the resolution dated September 25, 2013 of the Kolkata Municipal Corporation relates to removal of anomalies between Junior Assistant (1985 batch) and typist which occurred during promotion. It discusses the anomalies as well as the remedial measures to be taken. The resolution to our mind is specific and is capable of implementation.
10. We are not entering into the arena as to reasons why the Corporation did not implement the

resolution dated September 25, 2013. Corporation was obliged to implement such resolution after such resolution was taken. No new material is placed before us to suggest that there is a decision contrary to such resolution.

11. Non-implementation of such resolution, in our view, is a continuing wrong which the appellants are suffering. Non-implementation of such resolution is also at the behest of the employer and, therefore, the appellants as employees should not foisted with the liabilities of its non-implementation.
12. In such circumstances, it would be appropriate to set aside the impugned order dated March 14, 2024 and direct Kolkata Municipal Corporation to implement the resolution dated September 25, 2013 Agenda No. 41 Item No. 8.
13. Since the appellants limited their relief to the resolution dated September 25, 2013 in this appeal as also in the writ petition, we deem it appropriate to dispose of the appeal accordingly.
14. It is expected that the Corporation implements the resolution in terms of this order as expeditiously as possible and preferably within six months from date.
15. MAT/1153/2024 along with IA NO: CAN/1/2024 are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)