

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 22770 of 2023
Kamal Kumar Das
-versus
The Chakdaha Municipality & Ors.

Mr. Partha Sarkar
Mr. Abhijit Basu
Ms. Megha Sarkar
... for the petitioner.

Mr. Dipankar Mondal
Mr. Abdul Aziz Mondal
... for the Municipality.

The petitioner is a retired employee of Chakdaha Municipality. He is already getting pension. He seeks notional benefits from the date of his initial appointment.

A certificate has been issued by the Chairman of the Chakdaha Municipality on February 27, 2013 certifying that the service rendered by the petitioner for the period November 16, 1988 to July 31, 1996 was on fixed pay basis, whole time and it counts towards the qualifying service for pension.

The aforesaid period was, however, not taken into consideration by the State respondents particularly the Director of Pension, Provident Fund & Group Insurance at the time of calculating the terminal benefits of the petitioner.

The petitioner relies upon the communication made by the Deputy Secretary, Department of Local Government and Urban Development to all the Chairmen, Administrator, Executive Officer of the Municipality/Notified Area Authority/Corporation dated

May 17, 1986 that the Director of Pension, Provident Fund & Group Insurance that while issuing Pension Payment Order of the employees are admitting the service who were appointed on fixed pay provided a certificate is furnished by the appointing authority to the effect that the service rendered was on fixed pay, whole time and it counts towards qualifying service for pension.

The Deputy Secretary requested the local bodies that a certificate to the above effect is issued in such cases at the time of referring the pension cases to the Director of Pension, Provident Fund and Group Insurance.

In the instant case, admittedly, there is a certificate of the Chairman of the Municipality certifying that the petitioner was on fixed pay, whole time for the period November 16, 1988 to July 31, 1996 and the said period counts towards the qualifying service for pension.

A representation has been filed by the petitioner seeking notional benefit which is pending before the Director of Pension, Provident Fund & Group Insurance.

The Court is of the opinion that the decision in the matter is required to be taken by the Director of Pension, Provident Fund & Group Insurance and not by the Director of Local Bodies.

In view of the above, the instant writ petition is disposed of by directing the Director of Pension, Provident Fund & Group Insurance to take steps for consideration of the representation filed by the petitioner in the light of the Government memos

mentioned hereinabove and the certificate issued by the Chairman of the Chakdaha Municipality.

A reasoned order shall be passed and communicated to the petitioner positively within a period of eight weeks from the date of communication of a copy of this order.

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.)