

30.06.2025
Sl. No.21
Ct.3/ tkm

W.P.A. 963 of 2025

Parwati Bansfore
vs.
State of West Bengal & Ors.

Mr. Sankar Biswas
Mr. Denbnath Mahata

... .. for the petitioner

Mr. Suman Basu

... .. for Garulia municipality

Ms. Rupsa Chakraborty
Ms. Amrita Tewari

... .. for the State

1. Affidavit of service is taken on record.
2. The petitioner by way of present writ petition, challenges the impugned letter of communication dated 30th October 2024 passed by the Director of Local Bodies whereby the petitioner's claim for grant of pension has been rejected. The factual matrix giving rise to the present writ petition is as follows:
3. Petitioner was initially appointed as 'Majdoor' with the respondent municipality on 4th December 1990 in casual capacity and continued to discharge her duties without interruption till her superannuation on 31st December 2014. Although initially the petitioner was engaged as a casual employee but subsequently her appointment was regularized on 12th February 2007.

4. Post retirement, the petitioner applied for grant of pensionary benefit. However, her claim was rejected on 1.12.2022 on the ground that the petitioner does not possess the requisite qualifying service under the applicable rules.
5. The same was challenged by the petitioner by way of writ petition no. WPA 5381 of 2023. This court vide order dated 12.9.2023 disposed of the said writ petition after examining the right of the petitioner's claim in light of the aforementioned similarly situated employees. Operative portion of the said order reads as follows :

“in the instant case, the authority considered the pre-1992 casual workers in a single batch/group, but extended approval of appointment in respect of one set from their initial date of joining and in respect of the other set from the date of their approval. No reason being forwarded for such discriminatory action calls for interference by this court as the said action suffers from the vice of arbitrariness. Discriminating similarly situated candidates and granting benefit in respect of a handful and denying the same benefit in favour of the rest, amounts to discrimination, contrary to the principle of equality laid down under Article 14 of the Constitution. The same is impermissible in law.

The municipality admits that employees, similarly placed as that of the petitioner, are receiving pensionary benefit. In such a situation, not extending the same benefit to the petitioner will be sheer injustice, liable to be rectified by this court.

In view of the above, the impugned order passed by the DLB is held to be untenable in the eye of law and liable to be set aside. The impugned order is, accordingly, set aside. The DLB is directed to treat the petitioner in the same bracket as that of the other fifty-three pre-1992 casual workers and extend similar pensionary benefit as extended in favour of the employees whose service stood approved vide memo dated 20th February 2006.

The authority is directed to calculate the terminal benefit of the petitioner on and from her initial date of joining and to release the payment, after adjustment of the provisional pension, at the earliest but positively with a period of four months from the date of communication of this order.”

6. Thereafter, the respondent challenged the said judgment before the Hon’ble Division Bench in MAT 70 of 2024 (The Director of Local Bodies, Government of West Bengal vs. Parwati Bansfore & Ors.).

7. The Hon’ble Division Bench disposed of the said appeal by order dated 13.8.2024. The operative portion recorded in para 14 reads as under :

“For these reasons, we are inclined to set aside the impugned order passed by the Director of Local Bodies and remand the matter before the said Director who shall after giving an opportunity of hearing to respondent no. 1/writ petitioner take a fresh decision thereon within eight weeks from date of communication of this order under the 2003 Rules by deeming respondent no.1/writ petitioner was absorbed as permanent employee from the date of her initial appointment in the Municipality against sanctioned vacant post as pre

extant rules for the purpose of calculating her qualifying service. Decision so taken shall be communicated to respondent no.1/writ petitioner within one week thereof.”

8. A plain reading of the order of the Hon’ble Division Bench indicates the following :

- (i) Judgment of the learned single judge dated 12.9.2023 was not interfered with and continues to hold the ground
- (ii) The rejection order dated 01.12.2022 passed by Director, Local Bodies was quashed. The respondent authorities were directed to take a fresh decision within a period of eight weeks under the West Bengal Municipal Employees’ (Death-cum-Retirement Benefit) Rules, 2003 by deeming the petitioner to have been absorbed as permanent employee from the initial date of her appointment, for the limited purpose of computing qualifying service for pension.

9. Therefore, the only exercise left to be performed by the respondent was a ministerial one, namely, the calculation and determination of petitioner’s pensionary benefit strictly in accordance with the 2003 rules, treating the petitioner as being

absorbed in service from the initial date of appointment.

10. However, in gross disregard of the express direction issued by the Hon'ble Division Bench, the respondent has once again by way of impugned order dated 30th October 2024, revisited and rejected the petitioner's entitlement to pension on the ground that her regularization was only effective from 1.3.2007. This action amounts to reconsideration of an issue already conclusively determined by the Hon'ble Division Bench of this court in MAT 70 of 2024 and hence patently beyond the scope of the remand direction issued by this court.

11. This court is of the view that the impugned order dated 30.10.2024 is in direct contravention of the binding direction issued by the Hon'ble Division Bench as contained in the order dated 13.8.2024 in MAT 70 of 2024. The respondent was not at liberty to re-adjudicate the question of entitlement which stood settled.

12. Accordingly, the impugned order is hereby set aside. The respondent authorities are directed to pass a fresh speaking order within a period of two weeks from the date of communication of this order. The decision shall be made strictly in compliance with the direction of the Hon'ble

Division Bench in its order dated 13.8.2024 in MAT 70 of 2024 in accordance with the West Bengal Municipal Employees' (Death-cum-Retirement Benefit) Rules, 2003 and after affording an opportunity of hearing to the petitioner. For the purpose of calculating her qualifying service, her absorption shall be deemed to have been commenced from her initial date of appointment i.e. 4.12.1990.

13. With the above direction, the present writ petition is disposed of.

14. Since no affidavit is called for, allegations made in the writ petition are deemed to have been denied.

(Gaurang Kanth, J.)