

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**RESERVED ON: 11.06.2025
DELIVERED ON: 15.07.2025**

**PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH**

WPA 964 OF 2025

DEB KUMAR BANERJEE

VERSUS

STATE OF WEST BENGAL & ORS.

Appearance:-

**Mr. Sankar Biswas, Adv.
Mr. Debnath Mahata, Adv.
Ms. Ananya Adhikary, Adv.**

.....For the Petitioner

Mr. Suman Basu, Adv.

..... for Garulia Municipality

**Mr. Gourav Das, Adv.
Mr. Swapan Pal, Adv.**

.....for the State

JUDGMENT

Gaurang Kanth, J. :-

1. 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:
2. The petitioner was initially appointed as 'Electric Mistri' with the

respondent municipality on 4th June 1991 in casual capacity and continued to discharge his duties without interruption till his superannuation on 28th February, 2015. Although initially the petitioner was engaged as a casual employee but subsequently his appointment was regularized on 1st March 2007.

3. Post retirement, the petitioner applied for grant of pensionary benefit. However, his claim was rejected on 6th December 2022 on the ground that the petitioner does not possess the requisite qualifying service under the applicable rules.
4. The same was challenged by the petitioner by way of writ petition no. WPA 22690 of 2023. This court vide order dated 19th December 2023 disposed of the said writ petition noting that the present case is identical to the Judgment dated 12th September 2023 passed by the Court earlier in WPA 5381/2023 titled as Parwati Bansfore Vs The State of West Bengal & Ors. Hence after examining the right of the petitioner's claim in light of the aforementioned similarly situated employee, this Court disposed of the said writ Petition.

Operative portion of the said order reads as follows:

“The petitioner relies upon the decision passed by this Bench on 12th September 2023 in WPA 5381 of 2023 (Parwati Bansfore – Vs- The State of West Bengal & Ors). The petitioner submits that he stands on the same footing as that of Parwati Bansfore (supra). Prayer has been made for passing similar direction. Learned advocate representing the Municipality and the State submits that the petitioner may be given the same benefits as in the matter of Parwati Bansfore (supra).

In view of the above, the impugned order passed by the Director of Local Bodies is set aside.

The Director of Local Bodies is directed to treat the petitioner in the same bracket as that of the other 53 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 his initial date of joining and release the payment, after adjustment of the provisional pension already paid at the earliest but positively within a period of four months from the date of communication of this order.”

5. Thereafter, the respondent challenged the said judgment before the Hon’ble Division Bench in MAT 592 of 2024 (The Director of Local Bodies, Government of West Bengal vs. DebKumar Banerjee & Ors.).
6. The Hon’ble Division Bench disposed of the said appeal by order dated 13th August 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.”

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

- (i) Judgment of the learned single judge dated 19th December 2023 was not interfered with and continues to hold the ground
- (ii) The rejection order dated 6th December 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 his appointment, for the limited purpose of computing qualifying service for pension.

8. 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.
9. 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 his regularization was only effective from 1st March 2007. This action amounts to reconsideration of an issue already conclusively determined by the Hon'ble Division Bench of this court in MAT 592 of 2024 and hence patently beyond the scope of the remand direction issued by this court.
10. This court is of the view that the impugned order dated 30th October 2024 is in direct contravention of the binding direction issued by the Hon'ble Division Bench as contained in the order

dated 13th August 2024 in MAT 592 of 2024. The respondent was not at liberty to re-adjudicate the question of entitlement which stood settled.

11. 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 13th August 2024 in MAT 592 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 his qualifying service, his absorption shall be deemed to have been commenced from his initial date of appointment i.e. 4th June 1991.
12. With the above direction, the present writ petition is disposed of.
13. Since no affidavit is called for, allegations made in the writ petition are deemed to have been denied.

(Gaurang Kanth, J.)