

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 4703 of 2025

**Somnath Das
Versus
The State of West Bengal & Ors.**

For the petitioners : Mr. Sabyasachi Chatterjee
Mr. Badrul Karim
Ms. Suparna Dutta

For the Howrah : Mr. Sandipan Banerjee
Municipal Corporation Mr. Ankit Sureka

For the respondent nos. : Mr. Md. Manuwar Ali
1, 2 and 7.

Heard on : 02.12.2025.

Judgment on : 02.12.2025

Raja Basu Chowdhury, J (Oral):

1. The present writ petition has been filed, inter alia, praying for a direction upon the respondents to release and disburse the petitioner's pension, gratuity and leave encashment along with other retiral benefits in accordance with law.
2. It is the petitioner's case that the petitioner was originally working with Greater Calcutta Gas Supply Corporation Limited for the period between 10th January, 1990 to 20th May, 1997. Subsequently, in the year 1997, he tendered resignation

whereupon he was released from Greater Calcutta Gas Supply Corporation Limited on 28th January, 1997.

3. Pursuant to an advertisement published by Howrah Municipal Corporation inviting applications for the post of Personnel Officer amongst other posts, the petitioner having participated become successful and was appointed on probation vide office order dated 7th April, 1997. His service was later confirmed to the post of Personnel Officer under Personnel Department with effect from 21st May, 1998 as per the resolution no. 27 of the MIC decision dated 24th July, 1998. Later, in the year 2011, vide office order dated 3rd January, 2011, he was directed to assume charge of law officer in addition to his duties until further order. After successfully completing his service career he retired from service in the afternoon of 30th April, 2021, as would corroborate from the superannuation letter dated 5th April, 2019. According to the petitioner, although the petitioner has retired from service, the petitioner has, till date, not been disbursed with his retiral benefits including pension, gratuity and leave encashment.
4. Records would reveal upon the writ petition being moved, by an order dated 27th March, 2025, an opportunity was granted to the petitioner to add Director of Pension, Provident Fund and Group Insurance (DPPG) and Director of Local Bodies (DLB) as party respondents in the present proceedings. Since then, the added respondent no.7 has appeared and filed affidavit-in-opposition. I

find from the affidavit-in-opposition filed by the respondent no.7 that although steps had been taken to process the petitioner's pension papers, by reasons of certain audit observations the office of the respondent no.7 returned the pension file to the Howrah Municipal Corporation vide memorandum dated 14th March, 2024.

The relevant office memorandum is extracted hereinbelow:

 *Annexure - 2*

GOVERNMENT OF WEST BENGAL
Directorate of Pension, Provident Fund & Group Insurance
FINANCE DEPARTMENT
Purta Bhavan (2nd Floor), Salt Lake, Kolkata-700091

Return memo No. _____ Date: _____
 TO
 The Controller of Finance & P.S. *K*
 Howrah Municipal Corporation, Howrah
 4, Mahatma Gandhi Road
 Howrah - 711101

FILE No. MUN/HWH/ 00015/2024
Ref : Your Memo No. : ACCT ./PEN-238/2023-24

The service book with related papers in respect of **SOMNATH DAS** (Retd. Employee) of Howrah Municipal corporation is sent herewith for early issuance of authorization of pension, family pension & death Retiring Gratuity.

Audit Observations :

1. It is to be mentioned in S.B. whether provisional pension has been paid with date of effect of such payment
2. The order on 97-UDMA -25011(11) /29/2023-LS MA SEC DATED 16.03.03 to UDMA department GOVT. OF W.B. is to be furnished.
3. It is seen in previous service book (vol -I) that pay has been fixed as RS- 8275/- . Wef 21/5/97 (notionally) & RS- 8275 as on 1/5/99 with actual effect. It is further observed that the pay is recast wef 21/02/97 in S.B (voll-II) . PAS IS requested to furnish relevant details regarding overdrawal for such reixation in the case .
4. Reason for overdrawal for period 21/10/97 to 31/12/2019 to be furnished.
5. PSA is requested to furnish relevant documents regarding eligibility of Sri DAS to post of personnel officer as per GO no 599/MA/O/C-5 dt 30/11/1998 .
6. Relevant go issued by UDMA department regarding quarantine leave for COVID to be furnished .

[Signature]
 Deputy Director
 Pension, Provident Fund & Group Insurance
 Finance Department
 Government of West Bengal
 Date: *14/03/2024*

Return memo No... *K/RM/M/00073/2024*

Copy forwarded for information to

✓ Sri SOMNATH DAS
 Ganapati Apartment Flat no -A4 ,
 Kamal park , kestopur,
 KoLKATA - 700101.

5. Mr. Sureka, learned advocate appears for Howrah Municipal Corporation, has placed before this Court the communication dated 18th November, 2025 to contend that the clarifications sought for by the respondent no.7 have duly been provided vide the aforesaid memorandum. Copy of the aforesaid communication dated 18th November, 2025 as placed by Mr. Sureka in Court has already been taken on record. Mr. Sureka would like to highlight that although, other clarifications including wrong fixation of pay had been provided, however, the issue as regards lack of 7 years' of experience in the personnel administration department, which was flagged, having regard to the Government Order dated 19th March, 1991 read with Government Order dated 30th November, 1998 which required 7 years of experience as an essential qualification for appointment in the post of personnel department was not fulfilled by the petitioner since, the petitioner only possessed 5 years 11 months and 20 days of experience as on the date of publication of the advertisement dated 1st January, 1996. According to him, as there is no available Government order in the file relaxing his qualification, the same appears to be one of the shortcomings in the petitioner's appointment which has held back the petitioner's pension. He also highlights the fact that the petitioner did not have the requisite qualification of 7 years experience at the relevant point of time, for the petitioner to have been entitled to the revised scale of pay as per the memo dated 30th November,

1990, as such the pension papers could not be processed on the revised scale of pay, which was wrongfully fixed in his favour. According to the respondents, the above disentitles the petitioner to the pension on the basis of revised pay scale.

6. Having heard the learned advocates appearing for the respective parties I notice that in the instant case, the petitioner prior to his appointment was in the employment of Greater Calcutta Gas Supply Corporation Limited for the period between 10th January, 1990 to 20th May, 1997.
7. Although, the advertisement for the post of personnel officer was published on 29th May, 1996 by the Commissioner, Howrah Municipal Corporation, I find that the petitioner had applied, post his release from Greater Calcutta Gas Supply Corporation Limited. It may also be noted that the petitioner was appointed in the post of personnel officer on probation vide office order dated 7th April, 1997. He was subsequently confirmed. As per the above advertisement, the essential qualification for the post of personnel officer, as would corroborate from the advertisement dated 29th May, 1996 is extracted: hereinbelow;

**“HOWRAH MUNICIPAL
CORPORATION
4, Mahatma Gandhi Road, Howrah
Situations Vacant**

Applications are invited for the following permanent posts:

1) Assessor: Scale of Pay Rs. 3,000 – 4,750 + usual Allowances.

Education Qualification: (i) A Degree in Civil Engineering of a recognised University or Corporate membership of Institution Of Surveyors (India). Valuation Branch. (ii) 10 years' experience in rating and valuation in a responsible supervisory post under Govt./Semi-Govt. organisation or a local statutory body or a public utility concern or a reputable firm of Surveyors and Valuers. (iii) Age : Not more than 45 years on 1st January, 1996.

2) Personnel Officer: Scale of Pay Rs. 2,200 – 4,000 + usual Allowances.

Education Qualification: (i) Degree in Arts/Science or Commerce from a recognised University. (ii) Degree in Law (iii) Degree or diploma in Personnel Management from a recognised institution. (iv) 5 years experience in Personnel administration with adequate knowledge in labour laws Service Rules etc. in a reputed organisation. (v) Age not more than 45 years on 1st January, 1996.

3) Collector: Scale of Pay Rs. 3,00 – 4,750 + usual Allowances.

Education Qualification: (i) Hons' Graduate in Economics or Commerce. (ii) Degree in Law. (iii) 10 years' experience in rating and valuation in a responsible supervisory post under Govt./Semi-Govt. organisation/local statutory body or public utility concern or respectable firms of Surveyors and Valuers. Age : Not more than 45 years on 1st January, 1996.

4) Law and Licence Officer: Scale of Pay Rs. 2,200 – 4,000 + usual Allowances.

Essential: (i) A degree in Law of a recognised University. (ii) Three years' administrative experience in a responsible post under Govt. or in a statutory Body or public Utility Concern. (iii) Six years' standing experience as a practicing Advocate. Desirable: (i) Six years' experience in the local Govt. Deptt. of any Govt. Office or Semi-Govt. Office or local/Statutory Body as Law officer or its equivalent. Age: Not more than 40 years on the 1st January, 1996.

The authority reserves the right to condone the upper age limit for both the posts in respect of otherwise exceptionally well

qualified candidates. Those who have applied for post No.(1) & (2) in response to our advertisement in July, 95 need not apply again. Their cases will also be considered. Applicants are requested to contact Secretary's Deptt. in the first week of July 96 to know the probable date for interview/test. Applications with full biodata along with certificates and testimonials to be submitted to A.K. Guha, Secretary, Howrah Municipal Corporation, 4, M. G. Road, Howrah by 15-06-96.

B. Guhamazumder

Commissioner,

Howrah Municipal Corporation

(B74507)”

8. I also notice that by an office order dated 15th May, 1981 the post of personnel officer in Howrah Municipal Corporation had already been sanctioned by the Governor to the State of West Bengal. Having regard thereto, and the subsequent confirmation of the petitioner would demonstrate that the petitioner was duly appointed in a sanctioned post, pursuant to the decision of the Mayor in Council. The above advertisement was not published by the Government but by the Howrah Municipal Corporation. Having regard thereto, since, the petitioner as on 1st January, 1996 had more than 5 years of experience and at the time of entry into service had the requisite qualification of 7 years experience in the personnel department of Greater Calcutta Gas Supply Corporation, the entry into service cannot be questioned at this stage, after the respondents had allowed the petitioner to successfully complete his service tenure, that too after confirming his service vide M.I.C. decision dated 24th July, 1998. I, however,

notice that Mr. Sureka has relied on the memorandum dated 30th November, 1998 to demonstrate that the essential qualification for the post of personnel officer to be entitled to the revised scale was 7 years of experience in personnel administration of a Government/semi-Government/Local/Statutory Body/Commercial concern of repute. To morefully appreciate the aforesaid contention of Mr. Sureka the relevant paragraphs of the aforesaid memo, being paragraph nos. 1, 2 and 3 read with part D-1 of such memo are extracted hereinbelow:-

“1. Date of effect. – (1) *The revised scale of pay shall be effective from the 1st January, 1996.*

(2) The pay and also allowances which may be admissible to an employee of the Howrah Municipal Corporation on the basis of notional fixation of pay in the revised scale with effect from the 1st January, 1996, or such other date from which he elects to draw pay in the revised scale shall be actually paid to the Corporation employees with effect from the 1st April, 1997.

2. Scales of pay – (1) *The revised scales of pay for Corporation employees shall be as set out in Part B and Part D of Schedule I to this Resolution.*

(2) With effect from the 1st day of January, 1996, the scale of pay of any post specified in column (2) of part D of Schedule I shall be as specified against it in column (4) thereof.

(3) No special pay shall be drawn in addition to pay in the revised scale.

3. Drawal of pay in the revised scales.– *A Corporation employee shall draw pay in the revised scale applicable to the post to which he is appointed:*

Provided that a Corporation employee who was in Corporation service on the 31st December, 1995 may elect to draw pay in the revised scale from any date between the 1st January, 1996 and the 1st January, 1997 and continue to draw pay in the existing scale prior to that date. On electing to draw pay in the revised scale, a Corporation employee shall draw pay in the revised scale corresponding to his existing scale.

Note 1: The aforesaid option shall not be admissible to any person appointed to a post on or after the 1st January, 1996 for the first time in Corporation service. Such a person shall draw pay in the revised scale of the post with effect from the date of his appointment.

Note 2: The aforesaid option shall be applicable only in respect of the existing scale of the Corporation employee as on the 1st January, 1996. If the employee has got appointment to a higher scale of pay with effect from any date prior to the 1st January, 1997, he may exercise option to come over to revise scale corresponding to his existing scale (as on the 1st January, 1996) from a date not later than the date with effect from which he got appointment to the higher scale. His pay in the revised higher scale shall be fixed under normal rules.”

“Part D1

Sl. No.	Name of Post	Existing Scale of Pay	Revised Scale of Pay	Qualifications required
(1)	(2)	(3)	(4)	(5)
xxx	xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx	xxx
21.	Personnel Officer	Rs.2200-4000	Rs. 8000-13500	Essential: (i) A degree of a recognised University;

*(ii) 7 years' experience
in Personnel
Administration of a
Govt./Semi-
Govt./Local/Statutory
Body/Commercial
concern of repute.”*

9. I find that the aforesaid memo is relevant for the purpose of implementation of revised scales of pay for Corporation employees with effect from 1st day of January, 1996. The same cannot disentitle the petitioner towards payment of post retiral benefits, inter alia, including payment of gratuity, pension and leave encashment. In any event, I find that the petitioner admittedly had worked in the Greater Calcutta Gas Supply Corporation Limited for the period between 10th January, 1990 to 20th May, 1997, as such, as is apparent from the above that the petitioner had more than 7 years experience while working in the personnel department. On such score as well I am unable to accept the contention of Mr. Sureka that since, the petitioner did not have 7 years experience as of 1st January, 1996 as per the above memorandum the petitioner was not at all entitled to the revision of pay. I find from the above memorandum that the Governor to give effect to the recommendations of the Fourth Pay Commission, the effect of the revised pay scale has been given from 1st December, 1996. In respect of personnel officer the essential qualification is seven (7) years experience in personnel

Administration of Government/Semi Government/Local/Statutory Order/Commercial concern of repute. Obviously since the petitioner joined after 1st January, 1996, is entitled to the benefit of the above memorandum from the date of appointment and not prior thereto which has also been clarified in paragraph 3 of the above memorandum. The same, however, cannot disentitled the petitioner to the revised pay since the petitioner was not having qualification of seven (7) years in the personnel department as on 1st January, 1996. The qualification of seven (7) years of experience as on 1st January, 1996 has to be read with the drawal of pay, in revised scale with effect from 1st January, 1996, which is not the case of the petitioner.

10. Apart from the aforesaid issue since no other issue has been raised, I am of the view that there is no scope for the respondents to hold back the petitioner's pensionary benefits or the gratuity. Admittedly, in this case, it may be noticed that the petitioner is getting provisional pension with effect from May, 2021. Although, Mr. Sureka had attempted to make out a case from the bar that the petitioner had been enjoying additional benefit by abusing his position, no charge sheet has been placed before this Court to demonstrate that any steps had been taken by the respondents. The aforesaid allegation is also not supported by any affidavit. Mere allegation from the Bar, in my view, cannot disentitle the petitioner to be entitled to pension and the gratuity. The other submission of Mr. Sureka is that the petitioner was drawing higher scale of pay contrary to the Notification

dated 30th November, 1998, in my view, also cannot be a ground to disentitle the petitioner to the pensionary benefits without the respondents having initiated any proceedings against the petitioner.

11. The writ petition thus, stands allowed. Howrah Municipal Corporation as also the respondent no.7 are directed to take immediate steps for issuance of Pension Payment Order (PPO) in favour of the petitioner. The PPO must be issued within a period of two weeks from the date of communication of this order. So far as the gratuity is concerned, the same must be disbursed to the petitioner within a period of two weeks from the date of communication of this order. If the petitioner is entitled to any other benefit, the same shall be disbursed to him in accordance with law.
12. The aforesaid order is not an expression of opinion by this Court insofar as the determination of the amount payable to the petitioner under the PPO is concerned. The respondent shall be obliged to determine such pension in accordance with law and on the basis of observations made herein.
13. With the above observations and directions, the writ petition is disposed of.
14. There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)