

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

**RESERVED ON: 29.07.2025
DELIVERED ON: 12.08.2025**

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

WPA 24133 OF 2024

BALESWAR BHUINYA

VERSUS

THE STATE OF WEST BENGAL & ORS.

Appearance:-

**Mr. Partha Sarkar, Adv.
Ms. Megha Sarkar, Adv.**

.....For the Petitioner

**Mr. P. C. Das, Adv.
Mrs. Soma Chowdhury (Bandhu), Adv.**

**..... for the Municipality
[Baidyabati Municipality]**

Mr. Saikat Sen, Adv.

.....For the State.

JUDGMENT

Gaurang Kanth, J. :-

- 1.** The Petitioner, through the present Writ Petition, seeks a direction upon Respondent No. 2 (Director, Local Bodies) and Respondent No. 4 (Chairman, Baidyabati Municipality) to approve his service profile in the IOSMS portal for the purpose of pay fixation and to release his final pension along with other retirement benefits. The Petitioner superannuated from service on 31.01.2022 while holding the post of *Road Coolie* under Baidyabati Municipality.
- 2.** The facts giving rise to the present petition are as follows:

- 3.** The father of the Petitioner was died on 13.08.1989 and hence the Petitioner was appointed as a Road Coolie on temporary basis w.e.f 25.09.1989 on compassionate ground against the said vacant post in the pay scale of 220-388/- with usual DA and other admissible allowances. The Petitioner continued in the said posts since 25.09.1989 till 31.01.2022 and was getting salary and other financial benefits as available to the permanent employees.
- 4.** After serving for 36 years, the Chairperson of the Municipality, vide letter dated 08.11.2021, informed the Petitioner that, in terms of Section 58 of the West Bengal Municipal Act, 1993, he would superannuate on 31.01.2022. Accordingly, the Petitioner retired from service on that date. However, till date, neither pension nor other retirement dues have been released in his favour.
- 5.** The Board of Administers of the Baidyabati Municipality, vide Memo No. 3491/B-16 dated 21.02.2022, states that the service files of the Petitioner and his father has already verified by the DDLB, Burwan Division and accordingly all the pension papers along with service files of the petitioner and is in process to forward to DPPG for issuance of PPO. The Petitioner is granted ad-hoc pension @ Rs. 8500/- p.m.
- 6.** The Chairman, Baidyabati Municipality vide letter dated 13.10.2023 forwarded the Petitioner's service file to the Director, Local Bodies, for verification and fixation of pay.
- 7.** Since his retirement on 31.01.2022, the Petitioner has received only his adhoc pension @ Rs. 8500/-. No other retirement benefits has been released to him till date. He accordingly submitted various representations including representation dated 03.09.2024 to the concerned authorities.

However, no reply has been received yet. Aggrieved by the inaction and delay on part of the Respondents, the Petitioner has approached this Hon'ble Court through the present Writ Petition seeking appropriate reliefs.

8. An Affidavit-in-Opposition/Report has been filed on behalf of Respondent No. 2 (Director, Local Bodies), to which the Petitioner has filed his response. However, no Affidavit-in-Opposition has been filed on behalf of Respondent No. 4 (Chairman, Baidyabati Municipality).

Submission on behalf of the Petitioner

9. Learned Counsel for the Petitioner submits that the Petitioner has rendered 36 years of unblemished service with the Respondent Municipality. His initial appointment, subsequent pay enhancements, and all other service-related financial benefits were duly recorded in his service book, and verified from time to time by the Chairman of the Respondent Municipality and DDLB, Burwan Division. The Petitioner was appointed as a *Road Coolie* against a sanctioned and vacant post, and during his tenure, he continuously served in the said post, enjoying all service benefits akin to a regular and permanent employee of the Municipality.
10. Learned Counsel further submits that the Director of Local Bodies and the Commissioner, UDMA Department, vide Letter No. 506/DLB/Stat/Misc./2014 dated 11.04.2019, had directed all Chairpersons/Commissioners of Urban Local Bodies to submit a complete statement of staff statistics as on 01.04.2019 for the purpose of release of salary, Dearness Allowance, and grant in a prescribed format. In compliance with the said directive, the Chairman of the Respondent Municipality submitted the relevant staff statistics of Baidyabati Municipality as on 01.04.2019. As per the said data, there were 310

sanctioned posts in the Municipality, and the Petitioner's name appears at Serial No. 41 under the designation of Road Coolie. This clearly indicates that the Petitioner was appointed against a valid, sanctioned vacancy.

- 11.** Learned Counsel submits that the Petitioner was appointed on 25.09.1989 on compassionate appointment. He continued to work against a sanctioned post and ultimately retired on 31.01.2022. Despite having rendered 33 years of blemish-free service, no steps have been taken by the Respondent Municipality to approve his profile in the IOSMS portal. The delay and inaction are wholly attributable to the Respondents, and the Petitioner cannot be penalized for the same. He cannot be deprived of his rightful pension and other retiral benefits for no fault of his own.
- 12.** Learned Counsel places reliance on Order No. 110/UDMA-25011(11)/109/2022-LSGSDC dated 06.02.2023 issued by the UDMA Department, regarding post facto approval of municipal employees. The said order clarifies that prior to the amendment of Section 54(3) of the West Bengal Municipal Act, 1993, effective from 01.10.2003, initial appointments made by Municipalities (other than those falling under Section 54(1)) against sanctioned vacancies as on or before 30.09.2003, did not require prior approval of the State Government. The Petitioner, having been appointed on 25.09.1989 against a pre-1978 sanctioned vacant post, and having received all service benefits till his retirement, is clearly entitled to the benefit of the said Government Order.
- 13.** Learned Counsel further places reliance on the judgment of this Hon'ble Court in *WPA 23748 of 2022* titled *Alok Dey vs. Baidyabati Municipality*, wherein the Petitioner was similarly appointed as a Road Coolie against a pre-1978 sanctioned vacant post. Vide order dated 25.11.2022, this

Hon'ble Court directed the Respondents to clear the outstanding retiral dues. In compliance, the Director of Local Bodies, vide Order No. 1535/DLB-15020(12)/4/2024-SEC(DLB)-DLB dated 04.11.2024, regularised the services of the said Petitioner. Further Pension Payment order has already been issued to him. Additionally, Learned Counsel refers to Memo No. 1988/A-45 dated 20.11.2017 issued by the Chairman of the Respondent Municipality, which reflects that 12 employees bearing the designation of Road Coolie were appointed against pre-1978 sanctioned vacant posts and, upon their superannuation, have all been granted pensionary benefits.

14. In view of the foregoing, the Petitioner prays that appropriate directions be issued to the Respondents for approval of his service profile and release of his pension and other retiral dues, as prayed for in the prayer clause of the Writ Petition.

Submission on behalf of the Respondent No. 2 (Director, Local Bodies)

15. As per the Affidavit-in-Opposition filed by Respondent No. 2, the Chairman of the Municipality is the designated pension sanctioning and pension payment authority, in terms of the provisions of *The West Bengal Municipal (Employees' Death-cum-Retirement Benefit) Rules, 2003*. The Director of Local Bodies is responsible for the verification of the service and pay particulars of the concerned employee, while the Director of Pension, Provident Fund and Group Insurance (DPPG) issues the Pension Payment Order (PPO).
16. It is submitted that, in accordance with the prescribed rules and procedure, prior to the retirement of an employee, the Chairman of the Municipality is required to submit the employee's service book and related

records to the Director, Local Bodies, for verification. Upon completion of such verification, the verified service record is returned to the Commissioner of the respective Municipality, who is then responsible for forwarding the requisite documents to the Director, Pension, Provident Fund and Group Insurance for the issuance of the PPO.

- 17.** Learned Counsel for Respondent No. 2 further submits that in the iOSMS portal, which is the centralised online human resource management platform for Urban Local Bodies (ULBs), employee details are entered by the respective ULBs by creating an individual employee profile. Where the appointment of an employee is duly approved by the State Government, and provided that all essential data (such as Date of Birth, educational qualifications, caste status, etc.) are correctly entered, the profile is marked as “*approved*” in the IOSMS portal and a unique employee ID is generated.
- 18.** On the other hand, in cases where an employee is appointed against an *unsanctioned post* or the appointment is not approved by the State Government, the profile remains marked as “*unapproved employee*” in the IOSMS portal. Despite this distinction, both approved and unapproved employees may continue to receive salary and other allowances in the same manner as other permanent employees of the Municipality.
- 19.** It is further submitted that when an approved employee retires and his service is verified by the Director, Local Bodies, his pension is processed through the *e-Pension* portal maintained by DPPG. For such processing, the data of the employee is electronically transferred from the iOSMS portal to the e-Pension portal. However, only approved profiles in the iOSMS portal are eligible for such data transfer. The approval of an employee's profile in

IOSMS is not an independent exercise; it is contingent upon the approval of the appointment by the State Government.

- 20.** Learned Counsel for Respondent No. 2 submits that the post of *Road Coolie* is not included as a sanctioned post in the staffing pattern of Baidyabati Municipality. The Petitioner was allegedly appointed against an unsanctioned post, and therefore, according to the Respondent No. 2, all subsequent administrative acts undertaken by the Municipality, including pay fixation and pay revisions, are in contravention of the prevailing Government norms and policies.
- 21.** In view of the above, it is contended that the Petitioner's profile could not be approved in the iOSMS portal and, consequently, his service book was not verified by Respondent No. 2.

Legal Analysis

- 22.** This Court heard the arguments advanced by both the parties and examined the documents.
- 23.** The central issue for determination in the present writ petition is whether the Petitioner, having rendered 33 years of uninterrupted and unblemished service under the Respondent Municipality, is legally entitled to pension and other retiral benefits, and whether the Respondents are justified in denying the same on the ground that the Petitioner was allegedly appointed against an unsanctioned post.
- 24.** The facts are largely undisputed. The Petitioner was appointed as a *Road Coolie* in Baidyabati Municipality with effect from 25.09.1989. The Petitioner retired from service on 31.01.2022 after 33 years of continuous service. During this period, he was paid regular salary and extended all benefits,

including pay revisions, increments, and ACP benefits, identical to any other regular and permanent employee of the Municipality.

- 25.** The objection raised by Respondent No. 2, the Director of Local Bodies, is that the post of *Road Coolie* is not reflected in the sanctioned staffing pattern of Baidyabati Municipality. It is alleged that the Petitioner was appointed against an unsanctioned post, and consequently, any benefits or pay revisions granted to him by the Municipality were in violation of Government policy. On that basis, the Petitioner's service profile was not approved in the iOSMS portal, which is a precondition for initiating pension processing in the e-Pension portal.
- 26.** The Petitioner has, however, placed on record a staff strength report/statistics of Baidyabati Municipality as on 01.04.2019, which reflects a total of 310 sanctioned posts, including 19 posts for Road Coolies, with the Petitioner's name appearing at Serial No. 41. This documentary evidence clearly demonstrates that the Petitioner was appointed against a sanctioned post. Importantly, this staff statement has neither been specifically denied nor controverted by the Director, Local Bodies. No affidavit-in-opposition has been filed by the Respondent Municipality disputing the Petitioner's claim of sanctioned appointment. Rather the staff strength report/statistics of Baidyabati Municipality as on 01.04.2019 indicates that Petitioner was appointed against a vacant sanctioned post.
- 27.** Moreover, the Petitioner has relied upon Government Order No. 110/UDMA-25011(11)/109/2022-LSGSDC dated 06.02.2023, which categorically clarifies that appointments made by Municipalities against sanctioned vacancies up to 30.09.2003 do not require prior approval of the State Government, in view of the then-prevailing provisions of Section 54 of

the West Bengal Municipal Act, 1993. The Petitioner was appointed on 25.09.1989 on compassionate appointment, falls squarely within this exempted category. Therefore, the objection regarding absence of prior State approval is misplaced and contrary to the express clarification issued by the State Government itself.

- 28.** Significantly, the Petitioner has drawn attention to a precedent, *WPA 23748 of 2022 (Alok Dey v. Baidyabati Municipality)*, wherein a similarly situated employee who was also appointed as a Road Coolie against a pre-1978 sanctioned post was granted relief by this Court. Pursuant to the Court's direction dated 25.11.2022 in that case, the Director, Local Bodies issued Order No. 1535/DLB-15020(12)/4/2024-SEC(DLB)-DLB dated 04.11.2024, regularising the service of the said employee and thereby facilitating the processing of his pension.
- 29.** In addition, the Petitioner has placed reliance on Memo No. 1988/A-45 dated 20.11.2017 issued by the Respondent Municipality itself, which records that 12 employees designated as Road Coolies were appointed against pre-1978 sanctioned posts and have all been granted pension after superannuation. This further fortifies the Petitioner's contention that the position of Road Coolie is not only sanctioned but that similarly situated employees have been granted identical relief.
- 30.** This Court finds that the consistent salary disbursal, confirmation of service, application of pay revisions and ACP, combined with the explicit inclusion of the Petitioner's name in the sanctioned staff list, leads to the inescapable conclusion that the Petitioner's employment was lawful, valid, and in accordance with the sanctioned establishment of the Municipality. The objection raised by the Respondent No.2 at this belated stage, after

decades of recognised service, appears to be arbitrary, discriminatory, and violative of the principles of natural justice and legitimate expectation.

- 31.** The Petitioner having been recognised and remunerated for 33 years on par with other permanent employees, would culminate in the grant of pension and retiral benefits. The State and its instrumentalities cannot be permitted to approbate and reprobate, to accept the benefit of an employee's service and deny the obligations arising therefrom.
- 32.** In view of the above discussion, this Court is of the considered view that the Petitioner was appointed against a valid and sanctioned post prior to 30.09.2003 and has served the Respondent Municipality with distinction for over three decades. There is no legal or factual basis for denying him pensionary benefits.
- 33.** Accordingly, the writ petition is allowed, and the following directions are issued:

 - (i) The Director, Local Bodies is directed to regularise the service of the Petitioner, in the same manner as done in the case of *WPA 23748 of 2022 (Alok Dey)*, and to verify the service and pay particulars of the Petitioner within a period of 2 weeks from the date of this order.
 - (ii) Upon completion of such verification, the Director, Pension, Provident Fund and Group Insurance (DPPG) shall issue the Pension Payment Order (PPO) within a further period of 2 weeks.
 - (iii) The Respondent Municipality shall thereafter release all pensionary and other retiral dues to the Petitioner within a period of 2 weeks from the date of receipt of the PPO.
- 34.** Before parting with this judgment, this Court considers it essential to underscore, in unequivocal terms, that pension is neither an act of charity

nor a discretionary bounty bestowed by the employer. Rather, it is a vested right, both constitutional and statutory in nature, accruing to an employee as a culmination of years of continuous, diligent, and blemish-free service rendered to the institution, and through it, to the State. Pension and retiral benefits are not mere ex gratia payments; they constitute a form of deferred remuneration, a part and parcel of the terms of employment and are, therefore, intrinsically linked to the fundamental right to life and livelihood as guaranteed under Article 21 of the Constitution of India. The disbursement of such benefits is not contingent upon the grace of the employer, but is a legal obligation that must be discharged with promptitude and in full measure. Delay in the release of pensionary dues, especially on account of administrative indifference, procedural red-tapism, or inter-departmental blame-shifting, is wholly indefensible in law. Such conduct not only imposes undue hardship on retired employees, many of whom are aged, ailing, and financially dependent on their pensions, but also erodes the constitutional promise of dignity in retirement.

- 35.** This Court reiterates that retired employees, having spent a lifetime in public service, are entitled to be treated with dignity, empathy, and respect. It is the solemn duty of every governmental and municipal authority to ensure that the legitimate dues of such employees are settled expeditiously, without requiring them to run from pillar to post or seek judicial intervention for redressal. Accordingly, this Court cautions that any deviation from these principles in future shall be viewed seriously, and appropriate directions, including imposition of costs or personal accountability of the erring officials, may be considered where warranted.

- 36.** With the above directions, the writ petition stands allowed. There shall be no order as to costs.
- 37.** Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Gaurang Kanth, J.)

SAKIL AMED (P.A)

