

Form No.J(2)

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

Present :

**The Hon'ble Justice Raja Basu Chowdhury**

**WPA 1527 of 2025**

**Sri Arun Kr. Roy  
versus  
State of West Bengal & Ors.**

For the petitioner : Mr. Partha Sarkar  
Mr. Abhijit Basu  
Ms. Megha Sarkar

For the Municipality : Mr. Atreya Chakraborty

For the State : Ms. Sipra Mazumdar  
Ms. Somashree dey

Heard on : 17.03.2026

**Judgment on : 17.03.2026**

**Raja Basu Chowdhury, J (Oral):**

1. The instant writ petition has been filed, inter alia, praying for a direction upon the respondent Nos. 2 and 4 the Director of local bodies and ex officio Special Commissioner, UD & MA Department, Government of West Bengal and the Chairman of Old Malda Municipality to accord post facto approval on the appointment of the petitioner as Assistant Clerk cum typist, by

taking into account the petitioner's service period since 1st October, 2001 till 16th March, 2015 for the purpose of computing the total service period since 1st October, 2001 to 31st December, 2022 that is 22 years as qualifying service for being entitled to the pensionary benefit.

2. When the matter came up for consideration, this Court by an order dated 11th November, 2025 by noting that the petitioner participated in the direct recruitment process conducted by the Old Malda municipality wherein he was selected as clerk had directed the Chairman, Old Malda Municipality to file an affidavit disclosing therein the letter dated 23rd February, 2015 and to enlighten this Court whether any direct recruitment process was conducted at the instance of Old Malda Municipality and with further directions as recorded therein.
3. Pursuant to the aforesaid order, an affidavit-in-opposition has been filed by the municipality. From the disclosure made by the municipality, which includes the petitioner's service book, it would transpire that the petitioner was initially absorbed in Group D as per resolution adopted in the meeting of the Chairman in Council and approved in the meeting of the Board of Councilors of the municipality held on 22nd September, 1997 and 26th September 1997 respectively, at the scale of pay noted therein. The service book would further record that the petitioner was later promoted to the post of Assistant Clerk cum typist in

the scale of pay indicated therein vide office order dated 19th October, 2001 with effect from 1st October, 2001 as per the resolution adopted by the Chairman in Council and Board of Councilors in the meeting held on 10th October, 2001 and 15th October, 2001 respectively. The service book would further record that vide order dated 17th March, 2015 issued by the Director of local bodies the appointment of the petitioner was approved to the post of the clerk.

4. The petitioner has since upon attaining the age of superannuation retired from service on 31st December, 2022. From the aforesaid affidavit, it would also transpire that while the petitioner was in service of the municipality, the petitioner has applied before this Hon'ble Court in WP 30250(w) of 2014 for a direction upon the municipality to allow him to participate in selection process for appointment in the post of clerk under unreserved category. Records would reveal that by an order dated 10th December, 2014, the aforesaid writ petition was disposed of by, inter alia, directing the municipality to allow the petitioner to participate in the selection process for filling up the post of clerk under unreserved category along with other eligible candidates after condoning the minimum age. Such direction was issued by the coordinate Bench by, inter alia, observing that the rights of the petitioner to be considered against the vacant post of clerk cannot be denied by the municipality on the ground

of age bar ignoring the fact that the petitioner has been working in the above post for a considerable period and has sufficient experience therein.

5. The petitioner, however, now seeks for a declaration that the entire period of service rendered by the petitioner with the municipality should be treated as a qualifying service. The learned advocate for the petitioner has relied on a Government Order dated 6th February, 2023 in support of his contention that the director of local bodies having regard to the above order, is authorized to grant post facto approval to the appointment made by the municipality against sanction vacancies holding scale of pay of Rs. 380-910 since revised to 4000-8850. According to him, the petitioner at the relevant point of time while discharging his duties in the post of Assistant Clerk cum Typist was having a scale of pay of 3350/--6325/- and is accordingly entitled to the benefit of the above circular.
6. Ms. Majumder, learned advocate appears for the State would submit that since in the instant case, the municipality had sought for approval for appointment of the petitioner in the post of clerk in 2015, the petitioner having not completed the minimum qualified service is not entitled to pension. Mr. Chakraborty learned advocate appearing for the municipality would, however, place before this Court the service book of the petitioner annexed to the affidavit filed by the Municipality.

7. Having heard the learned advocates for the parties, and having considered the materials on record and having regard to the above circular, I find that the by the above Government Circular dated 6th February, 2023 issued by the Additional Secretary, government of West Bengal, is in fact a clarificatory amendment order. The relevant portions thereof, is reproduced herein below:

*“WHEREAS, it appears that the erstwhile Municipal Affairs Department, Government of West Bengal vide Order No.207/MA/O/C-4/1A-7/2000 dt. 07.05.2009 has authorised the Director of Local Bodies, West Bengal to issue orders according post facto approval to the initial appointment/promotion of an employee of Municipalities made by the municipalities against the sanctioned vacancies holding erstwhile scale of Rs. 380-910/-, since revised to Rs. 4000/-8850/- and below between the period from 14.07.1994 to 15.10.2000 on case to case basis after due examination/enquiry;*

*AND WHEREAS, it also appears that later the erstwhile Municipal Affairs Department. Government of West Bengal vide Order No.422/MA/O/C-4/1A-7/2000 dt. 19:08.2009 has made an arnendment to this Department's Order No.207/MA/O/C-4/1A-7/2000 dt. 07.05.2009 where Director of Local Bodies was authorised to issue orders according post-facto approval of appointments/promotions*

*made by the Municipalities against sanctioned vacancies holding scales of Pay from Scale of Pay of Rs.380-910/-, since revised to Rs. 4000-8850/- to the Scale of Pay of Rs.245-455/-, since revised to Rs. 2850-468/-, within the period from 14.07.1994 to 15.10.2000 on case to case basis after due examination/enquiry and it was further stated that no approval of the State Government is required in the cases of appointments/promotions made by the Municipalities within the period from 14.07.1994 to 15.10.2000 against sanctioned vacancies holding erstwhile scale of pay of Rs.230-414/-, since revised to Rs.2700-4400/- to the erstwhile scale of pay of Rs.220-388/-, since revised to Rs.2600-4150/- (hereinafter referred to as the said Scales of Pay), or in the cases where the resolutions adopted by the Board of Councillors of the Municipalities for making appointments/promotions against the sanctioned vacant post holding the aforesaid scale of pay but implementation of such resolution has been kept pending till obtaining Government approval during the aforesaid period;*

*AND WHEREAS, the West Bengal Municipal Act, 1993 came into force with effect from 13.07.1994 vide this Department's Notification No.393/C-4/MIA-5/91 Pt. 1 dated 13.07.1994;*

*AND WHEREAS, before the amendment to the sub-section (3) of section 54 of the West Bengal Municipal Act, 1993 which has come into force with effect from 01.10.2003, the initial appointment/promotion of an employee of Municipalities, other than the officers as*

*mentioned in sub section (1) of section 54, made by the municipalities against the sanctioned vacancies upto the date 30.09.2003, does not require prior approval of the State Government.*

*AND WHEREAS, after amendment to the sub-section (3) of section 54 of the West Bengal Municipal Act, 1993 which has come into force with effect from 01.10.2003, for appointment/promotion of an employee of Municipalities, other than the officers as mentioned in sub-section (1) of section 54, made by the municipalities against the sanctioned vacancies, prior approval of the State Government become mandatory,*

*NOW, THEREFORE, the Governor, after due consideration, is pleased hereby to make the following amendment to this Department's Order No.207/MA/O/C-4/1A-7/2000 dt. 07.05.2009 (hereinafter referred to as the said order) read with Order No.422/MA/O/C-4/1A-7/2000 dt. 19.08.2009*

*Amendments*

*In the said order,-*

*(1) In the first para for the words " against sanctioned vacancies holding erstwhile Scale of Pay of Rs. 380-910/-, since revised to Rs. 4000/--8850/-, and below between the period from 14 day of July, 1994 to the 15th day of October, 2000", the words "against sanctioned vacancies between the period from 14th day of July, 1994 to the 30th day of September, 2003 in respect of all other officers and employees not included in sub-section (1) of section*

*54 of the West Bengal Municipal Act, 1993" shall be substituted;*

*(2) (a) in the last para for the words "to authorise the Director of Local Bodies, West Bengal to issue orders according post facto approval of appointments/promotions made by the municipalities against the sanctioned vacancies holding erstwhile scale of Rs. 380-910/-, since revised to Rs. 4000/- 8850/- and below within the aforesaid period on case to case basis after due examination/enquiry" the words "to declare that the initial appointments/promotions in respect of all other officers and employees not included in sub-section (1) of section 54 of the West Bengal Municipal Act, 1993, made by the municipalities against the sanctioned vacancies between the period from 14th day of July, 1994, to the 30th day of September, 2003, shall be deemed to have been done as per extant provisions of West Bengal Municipal Act, 1993 and has ratification of the State Government" shall be substituted;*

*(b) the last paragraph of the said order shall be omitted."*

8. It is clear that the petitioner who was appointed in the post of Assistant Clerk cum Typist which is sanctioned post in the scale of pay of 3350/- - 6325/- with retrospective effect from 1st October, 2001 is entitled to the benefit of the aforesaid Government order.

9. Having regard thereto, since the appointment was made between 14th July, 1994 and 30th September 2003, the same is deemed to have been done as per the external provisions of West Bengal Municipal Act, 1993 and has the ratification of the State Government. The objection issued by the learned advocate for the State that the petitioner's service having been approved only in the year 2015 is not entitled to pension, cannot be sustained. Accordingly, I am of the view that the petitioner's appointment does not require any further post facto approval by the director of local bodies and the petitioner is entitled all retiral benefits by treating the petitioner to be in approved service of the municipality in terms of the provisions contained in the West Bengal Municipal Act, 1993 with effect from 1st October, 2001 till reaching the age of superannuation that is 30th December, 2022. All consequences shall follow.

10. Further taking note of the fact that the municipality has already forwarded all papers pertaining to the petitioner's retiral benefits to the Director of Pension Provident Fund and Group Insurance vide communication dated 20th June, 2025, the said respondent is directed to take expeditious steps in the matter and it is expected that a decision in this regard shall be taken by the authorities as expeditiously as possible preferably within a period of 6 weeks from the date of communication of this order.

11. With the above observations and directions, the writ petition is disposed of.

**(Raja Basu Chowdhury, J.)**

**Sayandeep  
A.R. (Court)**