

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

**RESERVED ON: 10.12.2025
DELIVERED ON: 05.02.2026**

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

WPA 16837 OF 2024

**DR. PRIYADARSHI SARKAR
VERSUS
THE STATE OF WEST BENGAL & ORS.**

Appearance:-

**Mr. Saptarshi Roy, Adv.
Mr. Siddhartha Roy, Adv.
Ms. Kakali Das Chakraborty, Adv.**

..... for the Petitioner

**Mr. Debjit Mukherjee, Adv.
Mr. S. Chatterjee, Adv.**

..... for the State

**Mr. Amales Ray, Sr. Adv.
Ms. Mousumi Bhowal, Adv.**

..... for the Municipality

JUDGMENT

Gaurang Kanth, J.:-

1. The Petitioner, by way of the present writ petition, assails the order dated 09.04.2024 passed by the Director of Local Bodies, West Bengal, whereby the Petitioner's claim for grant of pensionary benefits, upon according post facto approval in terms of the circular dated 06.02.2023, was considered pursuant to and in compliance with the direction of this Court dated 18.01.2024 passed in WPA 4262 of 2016. By the said order, the Director of Local Bodies held that the Petitioner is not entitled to regularisation of service or to any retiral benefits.

2. The facts leading to the filing of the present writ petition are stated hereinbelow.
3. The Petitioner was appointed as a *Residential Medical Officer* on probation vide Memo No. 76 dated 01.09.1998 at Dum Dum Municipal Specialized Hospital & Cancer Research Centre by the Chairman, Dum Dum Municipality, pursuant to a decision taken by the Board of Municipal Commissioners/Councillors. The service of the Petitioner was subsequently confirmed with effect from 04.04.1999.
4. All service related entitlements were extended to the Petitioner, and he has been continuously rendering his services without any interruption. There has been no break in service. The Petitioner's service book was duly prepared and maintained in accordance with law. The proposed date of retirement of the Petitioner from the post of Residential Medical Officer is 09.06.2031.
5. As the Petitioner is entitled to pensionary benefits, and as post facto approval of his appointment is required for such purpose, the Petitioner made several written representations to the Chairman of the respondent Municipality seeking grant of post facto approval. However, no response was received. Consequently, the Petitioner was constrained to file W.P. No. 4262 (W) of 2016, praying, inter alia, for grant of post facto approval and consequential pensionary benefits upon retirement. The learned Single Judge of this Court, by order dated 10.11.2016, disposed of the said writ petition by directing the respondents to act in terms of the judgment dated 30.01.2008 passed by the Hon'ble Division Bench in MAT 704 of 2007 titled *Chairman, Dum Dum Municipality & Ors. vs. Dr. Debranjana Biswas & Anr.*

6. Aggrieved thereby, the respondents preferred an intra-court appeal being MAT 553 of 2017 (*State of West Bengal vs. Rafiqul Islam & Ors.*). By order dated 27.11.2017, the Hon'ble Division Bench set aside the order dated 10.11.2016 and remanded the matter for fresh consideration after exchange of affidavits.
7. In the meantime, a similarly situated person, namely Dr. Shakti Lal Chowdhary, filed a writ petition with identical prayers being WPA 4259 of 2016 titled *Dr. Shakti Lal Chowdhary vs. State of West Bengal*. By order dated 23.03.2022, the learned Single Judge allowed the said writ petition. The respondents challenged the said order by filing an intra-court appeal being MAT 890 of 2022 titled *State of West Bengal vs. Dr. Shakti Lal Chowdhary*. The Hon'ble Division Bench, by judgment dated 13.10.2023, dismissed the appeal and held that Dr. Shakti Lal Chowdhary, Dr. Asit Ranjan Kudu Dr. Priyadarshi Sarkar (the Petitioner herein) were appointed against validly created posts by the Municipality in exercise of powers conferred under the West Bengal Municipal Act, 1993. Accordingly, the respondents were directed to process the pension case of the petitioner therein, sanction his admissible retiral dues upon completion of necessary formalities, issue the Pension Payment Order, and grant post facto approval, if necessary, within a period of 12 weeks.
8. In view of the aforesaid judgment dated 13.10.2023 passed by the Hon'ble Division Bench in MAT 890 of 2022, the learned Single Judge of this Court, by order dated 18.01.2024 passed in WPA 4262 of 2016, disposed of the said writ petition by directing the Director of Local Bodies to decide the issue relating to grant of pension in favour of the Petitioner upon according post facto approval, in terms of the circular dated 06.02.2023,

within a period of 12 weeks after affording an opportunity of hearing to the Petitioner or his authorised representative. It was further clarified that while taking such decision, the Director of Local Bodies shall follow the order dated 23.03.2022 passed in WPA 4259 of 2016 and the judgment dated 13.10.2023 passed by the Hon'ble Division Bench in MAT 890 of 2022.

- 9.** In purported compliance with the order dated 18.01.2024, the competent authority afforded an opportunity of personal hearing to the Petitioner and thereafter passed a speaking order dated 09.04.2024, whereby the Petitioner's claim for grant of pensionary benefits, upon according post facto approval in terms of the circular dated 06.02.2023, was rejected, holding that the Petitioner is not entitled to regularisation of service or to any retiral benefits.
- 10.** Being aggrieved and dissatisfied with the said impugned order dated 09.04.2024, the Petitioner has preferred the present writ petition.
- 11.** Mr. Saptarshi Roy, learned Counsel for the Petitioner, submits that the issue involved is squarely covered by the judgment dated 13.10.2023 passed by the Hon'ble Division Bench in *MAT 890 of 2022 (State of West Bengal vs. Dr. Shakti Lal Chowdhary)*, which has attained finality. He further submits that, despite specific directions issued by this Court on 18.01.2024 in *WPA 4262 of 2016* to act in terms of the said judgment, the respondent authority passed the impugned order dated 09.04.2024 in disregard thereof. Learned Counsel also points out that Respondent No. 2 has admitted in its affidavit that the Petitioner is similarly situated to the petitioner in *WPA 4259 of 2016* and that the Division Bench judgment is applicable to the present case.

- 12.** Perusal of the affidavit in opposition filed by Respondent No. 2 (Director of Local Bodies) reveals that the Respondent No. 2 admitted the fact that the Petitioner, Dr. Priyadarshi Sarkar, is similarly situated as the Petitioner in MAT 890 of 2022.
- 13.** In view of the clear and unequivocal admission made by Respondent No. 2, no further issue survives for adjudication. Accordingly, the impugned order dated 09.04.2024 is set aside. Respondent No. 2 is directed to extend to the Petitioner the same benefits as were granted to *Dr. Shakti Lal Chowdhary*, the petitioner in *WPA 4259 of 2016*, as expeditiously as possible.
- 14.** With the aforesaid directions, the present writ petition is allowed.

(Gaurang Kanth, J.)

SAKIL AMED (P.A)

