

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 17520 of 2024

**Pradip Manna
versus
State of West Bengal & Ors.**

For the petitioner : Mr. Santipada Pahari,
Mr. Sayantan Rakshit

For the State respondents : Mr. Ranjit Rajak

For the respondent nos. 3 to 6: Mr. Nilanjan Adhikari,
Ms. Oindrila Sinha.

Heard on : 25.03.2026

Judgment on : 25.03.2026

Raja Basu Chowdhury, J (Oral):

1. Affidavit-of-service filed in Court today is taken on record.
2. Heard the parties.
3. The matter pertains to a challenge to an order passed by the Director of Local Bodies (DLB) dated 19th April, 2023 whereby though the DLB had arrived at the finding that the petitioner was appointed in a sanctioned vacant post with effect from 1st May, 1990, however, since the same was not mentioned by the municipality in the correspondence, the DLB, West Bengal had

allowed notional fixation of pay of the petitioner from the date of initial appointment in the sanctioned vacant post with the scale of pay from 1st May, 1990 without disbursal of actual benefit. The learned advocate for the petitioner by drawing attention of this Court to the order dated 19th April, 2023 and the corresponding salary statement of the petitioner for the months of December 2023 to February, 2024 would submit that it is only on the basis of the aforesaid order that the petitioner's pay was revised from the date of such order. He would also submit that the matter has a chequered history. The petitioner had previously along with his co-workers approached this Court in WPA 18506 of 2021 challenging the non consideration of the recommendation of the municipality dated 30th July, 2021 and the consequential denial of financial benefits. When the aforesaid writ petition came up for consideration, a Co-ordinate Bench of this Court by an order dated 4th May, 2022, was, *inter alia*, pleased to pass the following order;

“The Director of Local Bodies has not filed a report, although directed by this Court on March 31, 2022. However, the State respondents representing the Director of Local Bodies submits, on instructions, that the Director of Local Bodies shall take steps to proceed in the matter as per the communication and recommendation of the Chairperson, Board of Administrators, Contai municipality dated July 30, 2021.

Undoubtedly, the cases of the petitioners had been recommended by the Contai municipality. Since July 30, 2021 the said recommendation has been kept pending by the Director of Local Bodies, as a result of which, the petitioners have been deprived of financial benefits. It is not in dispute that such

recommendation had been made and the contents thereof are explanatory.

Under such circumstances, this writ petition is disposed of with a direction upon the Director of Local Bodies to proceed in accordance with law on the basis of the recommendation and also upon taking into account that similarly situated persons, were already granted the reliefs, which are now claimed in terms of the recommendation dated July 30, 2021.

Needless to mention that as the employer has already recommended the cases of the petitioners by the communication dated July 30, 2021, the Director of Local Bodies must act in accordance with law and grant the benefits which have already been given to the other similarly situated employees of the said municipality.

A reasoned order shall be passed and communicated to the petitioners. The entire exercise shall be completed within a period of two months from the date of communication of this order.

This writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of server copy of this order and/or the learned advocate's communication."

4. Notwithstanding the aforesaid order, no steps were taken by the concerned respondents to comply with the direction passed by this Court. A contempt proceeding was initiated being WPCRC 39/2023. It is only thereafter that the hearing was taken up, as by order dated 16th March, 2023, the Court had stated that it was not satisfied with the order passed by the contemnor, and that the contemnor was simply dodging the directions of the Court. The Court also observed that the contemnor must act on the basis of recommendations made for approval of the petitioner, like 29 other

candidates who had been given post facto approval. Accordingly, the Court directed a further reasoned order to be passed upon hearing the petitioner.

5. In this context, it is relevant to indicate that the petitioner was engaged as a casual employee in Contai Municipality. A gradation list was later prepared by the DLB on 13th February, 2008 which included the petitioner's name with the object to fill up the vacant sanctioned post as per the gradation list. Subsequently, in furtherance to the order passed in WP No. 20466(W) of 2008, on 3rd December, 2009, by an order of the DLB 19 (Nineteen) Pre-92 Casual Workers were accorded approval of appointment by the Governor, in the sanctioned vacant post mentioned against the names of the employees in the list. The petitioner's name also featured in such list.
6. Following the aforesaid, the petitioner was appointed as a clerk with effect from 1st January, 2010, by letter dated 29th December, 2009. The appointment so made was, however, temporarily, though the pay of the petitioner was notionally fixed from the date of appointment to the sanctioned post with the pre-revised pay scale that was effective prior to 13th July, 1994.
7. By letter dated 30th July, 2021 a request was made by the Contai Municipality with the DLB regarding continuing the services of the employees noted therein, which included the petitioner, from the date of initial appointment, on the ground that they were left out six

Pre-92 casual employees, whose approval for appointment was ignored when 29 employees vide order dated 10th February, 2020 were given retrospective approval from the date of engagement, resulting in financial benefits including CAS benefits to these employees.

8. It is in this circumstances as aforesaid noted above the petitioner with his two other similarly placed co-employees approached this Court in WPA 18506 of 2021, which came to be disposed of by order dated 4th May, 2022 as aforesaid.
9. Subsequently, as would appear from the record, in furtherance of the order dated 16th March, 2023, the DLB had invited the petitioner for a hearing. In course of hearing, DLB had, however, noted that as per the Board of Councillors' resolution approving the appointment of the petitioner as fourth grade staff with effect from 1st May, 1990, the petitioner continued in such post till his appointment in the sanctioned post of clerk vide order dated 3rd December, 2009.
10. Following the above, the DLB noting that the petitioner was appointed in the sanctioned post as fourth grade staff with effect from 1st May, 1990, however, continued to draw the previous pay scale upto 1993, concluded that there is a clear disparity in the pay-scale of the petitioner and the other 29 employees who are given notional fixation of pay from the date of appointment in the sanctioned vacant post with scale of pay in the year 1994, had

disposed of the said proceeding by observing and directing as follows:

“.....

And whereas, Sri Ranjan Chakraborty, Finance Officer along with the acting Head Clerk and another Clerk of Contai Municipality attended the said hearing on 04.04.2023. They briefed their contentions and submitted the requested relevant documents regarding the case;

And whereas, it was found that the Chairman, Contai Municipality had issued order for salary disbursement of the above mentioned 2(two) of the petitioners' viz. Sk. Tabrejulla & Pradip Manna, in the Scale of pay of 4th Grade Staff, vide order No. 278 dated 15.06.1990;

And whereas, it was found from the copies of the acquittance roll furnished for Dec.'90, Jan'91 and June'93 that Sk. Tabrejulla & Pradip Manna were disbursed salary as per the Scale of pay of 4th Grade Staff;

And whereas, it is observed that the other petitioner, Ashok Kr. Bera continued to work as casual worker in an unsanctioned post till his appointment in the sanction vacant post of Clerk in terms order no. 1659/DLB/B-409/15-96(Pt.) dated 03.12.2009;

And whereas, since 2(two) of the petitioners' viz. Sk. Tabrejulla & Pradip Manna were appointed in sanctioned vacant posts as 4th grade staff w.e.f. 01.05.1990 and they continued to draw their pay in scale upto 1993, there exists a clear disparity in the pay scales of the petitioners and the other 29 employees who are given notional fixation from their date of joining in sanctioned vacant post with Scale of Pay in the year 1994;

The fact that 2(two) of the petitioners' viz. Sk. Tabrejulla & Pradip Manna were appointed in sanctioned vacant posts as 4th grade staff w.e.f. 01.05.1990 was neither mentioned by Contai Municipality in their various correspondences nor by the petitioners in the writ petition. In light of above it has been decided to allow notional fixation of Pay from their date of initial joining in sanctioned vacant post with Scale of Pay from 01.05.1990 in respect of Sk. Tabrejulla & Pradip Manna. No arrear salary shall be granted to them from 01.05.1990 till date.

Since the third petitioner Ashok Kr. Bera could not provide any evidence in support of his joining to any sanctioned vacant post in Scale of pay like the other petitioners prior to the approval order dated 03.12.2009, his case cannot be considered with the other 29 employees who were given notional fixation from their date of joining in sanctioned vacant post with Scale of Pay in the year 1994. So, his claim for notional fixation from the date of initial joining as casual worker with fixed pay cannot be allowed."

11. The petitioner is aggrieved by this portion of the order, which does not allow actual benefit to the petitioner. According to the petitioner, once the DLB had concluded that there is disparity in fixation of pay scales, between the petitioner and the other 29 employees who were given notional benefits/fixation from the date of appointment in the sanctioned vacant posts in the scale of pay in the year 1994, it was obligatory for the DLB to correct the disparity by affording the petitioner with differential salary and other financial benefits from the date when the aforesaid 29 employees

were given the actual benefit, so as to bring the pay of the petitioner in parity with the 29 similarly placed employees.

12. Having heard the learned advocates appearing for the respective parties, I find that admittedly in this case, the DLB having concluded that there had been disparity of pay of the petitioner with that of the other employees who were given notional fixation from the date of joining in sanctioned vacant post with scale of pay of 1994, I am of the view that the petitioner ought to have been afforded similar benefit.
13. If the other 29 employees have been provided with a scale of pay of 1994 and if it is found that the petitioner scale of pay was pre-revised pay prior to 1994, the petitioner should be directed actual disbursement of differential pay at least from the date when the 29 other employed were allowed such benefit and/or other financial benefits.
14. Having regard to the above, I remand the matter back to the Director of Local Bodies (DLB) to consider the aforesaid issue and I make it clear that if the other 29 employees have been given notional fixation from the date of joining in the sanctioned vacant post, then the same shall also be applied to the petitioner, and actual benefit should also be afforded to the petitioner from the date when the 29 employees were provided with actual benefit so as to remove the disparity.

15. With the aforesaid directions and observations, the instant writ petition is disposed of with a direction that the DLB shall take a decision in the matter as expeditiously as possible preferably within a period of 3 weeks from the date of communication of this order.
16. Considering the fact that the matter has been pending for a long time, the timeline provided is peremptory.
17. Once the order is passed, all consequences shall follow.

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.)

**Pritam
A.R. (Court)**