

24.02.2026
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Sl. No. 04
Ct. No. 03

WPA 23574 of 2024
With
CAN 1 of 2024(not in file)

Gopal Mondal
Vs.
The State of West Bengal & ors.

Mr. Amitabha Ghosh
Mr. Sreekumar Chakraborty
Mr. Souvik Chakraborty
..... for the petitioner
Mr. Sujay Bandyopadhyay
Mr. Subhomoy Dutta
.... For the municipality
Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
..... for the State
Mr. Sujoy Bandyopadhyay
...for the respondent

1. The affidavit-of-service filed in Court today is taken on record.
2. The present writ petition has been filed by an employee of the Midnapore Municipality. During the pendency of the writ petition he has retired on attaining his normal age of superannuation that is on 31.10.2024. The grievance of the petitioner is that he has not been disbursed his terminal benefits, he has been issued only a provisional pension payment order. It is the contention of the learned advocate for the petitioner that the Director of Local Bodies by a communication in writing dated 26th August, 2022 in the most arbitrary manner refused to grant post facto approval on promotion to the post of collecting sarkar to the petitioner on the following grounds:

i) "As per Staff pattern 1995 of Midnapore Municipality, the post 'Collecting Sarkar' is neither entitled nor sanctioned post.

ii) There was no HOC resolution mentioning their names for appointment or approval to the post of "Collecting Sarkar" on promotion is found.

iii) They have no Govt. approval of their initial posts.

iv) Govt. order no. 207/MA/O/C-4/1A-7/2000, dtd. 07.05.2009 for post facto approval to the post of 'Collecting Sarkar' cannot be applicable as this is not a sanctioned post."

3. The learned advocate for the petitioner has, however, drawn the attention of this Court to the document dated 29th September, 2022 issued by the Chairman wherein the above four points raised for not granting post facto approval has been dealt with by the municipality. He submits that the municipality in answer to the above has categorically stated that the post of collecting sarkar has duly been sanctioned by the competent authority vide memo No. 208/C-6/M2A-128/86 dated 26th March, 1987 issued by the Deputy Secretary, Government of West Bengal. Copy of such document has also been attached to the aforesaid communication. Insofar as the point No. 2 is concerned, it has been categorically stated that the resolution dated 28th April, 1999 was duly adopted by the municipality and the copy whereof was also forwarded. Insofar as point No. 3 is concerned, it has been stated that the Government approval of the initial post has already been enclosed along with the Board

resolution and regarding the Governmental order for post facto approval for the post of collecting sarkar is concerned, it is stated that since the post is a sanctioned post, the reasons for rejection cannot arise.

4. According to the learned advocate for the petitioner, the Director of local bodies has not taken any steps in furtherance to the above communication issued by the municipality. It is also brought to the notice of this Court that in the identical set of facts, one of the co-employees of the municipality who was similarly placed and had filed a writ petition being WPA 22991 of 2023 had been disposed of by an order dated 4th January, 2024 by directing the municipality and the director of local bodies to act in tandem and release the terminal benefits at the earliest.
5. It is submitted that pursuant to the above order in the above matter, the Director of local bodies has passed an order dated 25th April, 2024 observing that the appointment of the similarly circumstance employee was made against an approved post sanctioned vacant post and accordingly it was held that there was no requirement for post facto approval in such case.
6. Mr. Mukherjee, learned advocate appearing for the State submits that petitioner's initial appointment was in a different post later he appears to have been promoted to the post of collecting sarkar. On the basis of the instructions available to him, no post of collecting sarkar was sanctioned in respect of the

municipality and accordingly the matter was not processed further and post facto approval had initially been rejected by an order dated 26th August, 2022.

7. Mr. Bandyopadhyay, learned advocate appears for the municipality he, however, submits that municipality has provided the director of local bodies with necessary clarification as is required for obtaining post facto approval.
8. Having heard the learned advocates appearing for the parties, I am of the view in the peculiar facts when the municipality has already responded to the memo dated 26th August, 2022 and has provided Director of local bodies with all particulars, in my view, it is the obligation of the Director of local bodies to decide on the issue having regard to the disclosure made by the municipality.
9. However, since Mr. Mukherjee would submit that since the matter is old and all records as forwarded to the local bodies by the municipality are not available, I am of the view that the municipality should once again forward the communication dated 29th September, 2022 to the director of local bodies along with enclosures, for the Director of local bodies to take a decision in this regard. The decision in this regard must be taken by the Director of local bodies as expeditiously as possible preferably within a period of 8 weeks from the date of passing this order by passing a reasoned order.

10. With the above observations and directions, the writ petition is disposed of.
11. In view of the above order, the application being CAN 1 of 2024 is also disposed of.

(Raja Basu Chowdhury, J.)