

ML 103
17.06.2026
Court. No. 12
GB

MAT 2175 of 2025
With
CAN 1 of 2025
With
CAN 2 of 2025

State of West Bengal & Anr.
Vs.
Sudeb Dubey & Ors.

*Mr. D.N. Roy, Ld. GP.,
Ms. Susmita Saha Dutta, Ld. AGP.,
Ms. Tanusree Ghosh*

...for the Appellant/State.

*Md. Sarwar Jahan,
Mr. Srikanta Dutta,
Mr. Prodyot Kumar Ray,
Ms. Aditi Chakraborty*

...for the Respondent No.1.

*Mr. Yusof Ali Dewan,
Mr. Asif Dewan*

...for the Respondent No.4.

In Re: CAN 1 of 2025

1. This is an application for condonation of delay in filing the appeal.
2. Having considered the averments stated in paragraphs 3 to 6, we are satisfied that the delay has been explained properly.
3. Accordingly, the delay is condoned.
4. CAN 1 of 2025 is allowed and disposed of.
5. The appeal is regularized.

In Re: MAT 2175 of 2025

1. This is an appeal at the instance of the State of West Bengal, being aggrieved by and dissatisfied with the judgment dated September 16, 2025, passed in WAP 28373 of 2024.

2. By the order impugned, the learned court directed that the Director of Local Bodies should verify the service records of the respondent no.1 within a period of two weeks from date of receipt of the order of His Lordship and upon such verification, the Director of Pension Provident Fund and Group Insurance (DPPG) as also the municipal authorities shall take necessary steps for release of the pension and other retirement benefits of the respondent no.1.
3. Learned Additional Government Pleader submits that the order of His Lordship suffers from various irregularities:-
 - a) The respondent no.1 could not have been absorbed by the municipality and treated as a permanent employee.
 - b) The permission to absorb casual employees had been given by the Director of Local Bodies as a onetime measure only for Group-D posts and not for Group-C posts. The appellant was absorbed/regularized in a Group-C post.
 - c) Reliance on the decision of the Division Bench was misconceived on the ground that the employee in respect of whom such decision was rendered, was already in receipt of an acknowledgement from the DPPG that the said incumbent was entitled to retirement benefits.
 - d) Even if the service of the respondent no.1 had been regularized, until and unless such regularization/absorption was officially approved by

the concerned department, the appellant could not be treated as a regular employee against a sanctioned post.

4. Mr. Jahan, learned advocate for the respondent no.1 submits that the permission granted by the Director of Local Bodies was not restricted to Group-D posts. Reliance has been placed on the said permission. Secondly, a similarly circumstanced employee of the said municipality had been granted all retirement benefits by a learned Single Judge and the said order was upheld in the Division Bench. The respondent no.1 was similarly situated.
5. Considering the rival contentions of the parties, we are of the view that the regularization/absorption of the respondent no.1 was on the basis of the permission granted by the Director of Local Bodies. Schemes for regularization of casual workers are not alien to service law. In this case, the permission granted by the municipality to absorb all casual workers appointed prior to 1992, was a scheme of similar nature. The permission does not indicate that the same was restricted only for appointment to Group-D posts. Moreover, the documents filed before this Court support the case of the respondent no.1. The municipality also supported the case of the respondent no.1. Admittedly, there were eight sanctioned vacancies and the name of the respondent no.1 appeared at serial no.3 of the list of eight such workers. The respondent no.1 has rendered uninterrupted service with integrity and honesty, for more than ten years.

Pension/retirement benefits are the properties of an employee and cannot be disallowed on a ground of procedural irregularity on the part of the municipality.

6. Under such circumstances, the respondent no.1 cannot be penalised, if the municipality failed to obtain an approval, which was just a formality, in view of the permission already granted by the Director of Local Bodies to absorb the pre 1992 casual workers.
7. Under such circumstances, the retirement benefits and the reward for the service rendered, cannot be taken away on a technical ground.
8. Accordingly, the appeal and the connected application are dismissed.
9. The Director of local bodies shall comply with the order of His Lordship within a period of four weeks from date and, thereafter, the DPPG and the municipal authorities shall release the pension and other retirement benefits not later than three months thereof.
10. The order of His Lordship along with the direction for payment of interest are not interfered with. Only the time is extended as the intervening period has been lost on account of pendency of the appeal.
11. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)