

Form No.J(2)

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

Present :

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

**WPA 22417 of 2025**

**Santi Ram Sheet  
Versus  
The State of West Bengal & Ors.**

**With  
WPA 11681 of 2026  
Hari Nath  
Versus  
The State of West Bengal & Ors.**

**With  
WPA 11687 of 2026  
Radhapada Gangaputra  
Versus  
The State of West Bengal & Ors.**

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

For the Municipality : Mr. Phatick Chandra Das  
Ms. Soma Chaudhury (Bandhu)

For the State in WPA : Mr. Shaunak Ghosh  
22417 of 2026

For the State : Mr. Sukanta Ghosh  
In WPA 11681 of 2026  
& WPA 11687 of 2026

Heard on : 30.07.2026 & 04.08.2026

**Judgment on : 04.08.2026**

1. The above writ petitions have been taken up for consideration together as the same deals with a common cause. Being aggrieved by the failure on the part of the Baidyabati Municipality to disburse the retiral benefits in favour of the petitioners who had since retired from service, the above writ petitions have been filed.

2. The petitioners in each of the three writ petitions claim to have been employed by Baidyabati Municipality. In all the cases, the initial appointment of the respective petitioners were against casual vacancy. Subsequently, when vacancy arose against pre-1978 sanctioned posts, the petitioners were regularized and absorbed against such sanctioned posts and were issued orders of appointment vide a resolution adopted by the municipality on 6<sup>th</sup> March, 2000. Particulars of the aforesaid first two writ petitioners whose appointments were confirmed by the above resolution, the date of initial appointment, the date of appointment in the sanctioned post and the scale of pay along with date of the particular resolution where by the petitioners had been appointed are set out in the form of a chart hereinbelow:-

-25-

ENCLOSURE- 'A3'

২৫৫২ - ৩৩৪৪  
তারিখ : ২৫-১২ - ০৪৪১  
সংক্রান্ত মোঃ কবীর : ২৫-১২ - ৩-৩০০  
মোঃ : ১১ - ৩৩ - ২-১৩১২ - ০৪৪১

**বৈদ্যবাণী পৌরসভা**

১৮৬ / ২৪০ / ১, জি. টি. রোড, সত্যজিৎ দাস ভবন  
পোঃ - মেওড়াডুগি, জেলা - হুগলী, পিন - ৭১২২২৩

পত ০৬/০৩/২০০০ তারিখে অনুষ্ঠিত বোর্ড সভায় গৃহীত সিদ্ধান্ত :-

অ্যাপোলোচুলী ০৮ : আলােকের সভায় অফিসের কনসারভেটিব বিভাগের থেকে দ্রাষ্ট অন্তঃস্থ কর্মচারীরা যারা অফিসে বসে  
যে সময় মানবীয় পৌরসভায় আসান যে বিকত ০১.০১.২০০০ থেকে আরম্ভ করিয়া কনসারভেটিব বিভাগের এরা পল কলারী  
অবসর গ্রহণ ও মুক্তমানচিত কার্কে শ্রুতপদ সুবি গ্রহণে। তিনি আওত কার্কে উক্ত পলকর্তি Free 78 অনুমতিত পল  
ছিল এবং তিনি গ্রহণ পল যে জনসারসরকার জরুরী কার্কে বসায় রাখত অধিবাস শ্রুত পলকর্তি বুলন করা হযোমান ।

সভায় বিচারিত অ্যাপোলোনার পর সর্বপক্ষিকক্ষে সিদ্ধান্ত হয় যে, উক্ত শ্রুতপদকর্তিতে বর্তমানে দীর্ঘদিন অস্থায়ীভাবে  
কনসারভেটিব বিভাগে কর্মরত নিম্নলিখিত কর্মচারীগণকে পত ০১.০১.২০০০ তারিখে থেকে স্থায়ী শ্রুতপদকর্তি স্থায়ীভাবে নিযুক্ত  
করা হোক ।

| নাম                        | পদ                          | বেতনক্রম      |
|----------------------------|-----------------------------|---------------|
| ১। মদন মুখার্জি অ্যাপোলারী | কনসারভেটিব বিভাগ            | ৩ ১০০ - ৩ ১০০ |
| ২। শ্রী নিমুদান সার্ক      | কনসারভেটিব হাটিক (মোঃ কুলি) | ৩ ১০০ - ৩ ১০০ |
| ৩। শ্রী হরি দাস            | কনসারভেটিব হাটিক (মোঃ কুলি) | ৩ ১০০ - ৩ ১০০ |
| ৪। শ্রী শান্তিরাম দাস      | কনসারভেটিব হাটিক (মোঃ কুলি) | ৩ ১০০ - ৩ ১০০ |

APPROVED .....  
 ১০/০৩/২০০০  
 (Signature)  
 ১০/০৩/২০০০  
 ১০/০৩/২০০০

স্বাক্ষর  
 অধির দাস  
 ১০/০৩/২০০০

Commisary of Appeal  
 High Court Appellate St.  
 Calcutta

3. Insofar as the petitioner in WPA 11687 of 2026 is concerned, in the said case the petitioner had previously approached this Court, inter alia, praying for absorption in a permanent vacancy. Records would reveal that by a Coordinate Bench of this Court in CO 9662 (W) of 1991, on 26<sup>th</sup> September, 1996, while disposing of the writ petition had granted liberty to the municipality to absorb the petitioner in a permanent post. Following the aforesaid, by an office order dated 13<sup>th</sup> January, 1997 the aforesaid petitioner was appointed as a Conservancy Worker (Road Coolie) in the scale of pay of Rs.800 to 1265/-.

4. Records would reveal that subsequently by a communication dated 20<sup>th</sup> November, 2017, the municipality had intimated the factum of appointment of the respective petitioners along with other employees in sanctioned post in the municipality to the Director of Local Bodies, Government of West Bengal and had sought for approval as per the order no.300/MA/O/C-4/1A-7/2000 dated 28<sup>th</sup> June, 2004 issued by the Government of West Bengal. In this context, it is relevant to note that by the above office order dated 28<sup>th</sup> June, 2004, by the order of the Governor, the Joint Secretary to the Government of West Bengal, Department of Municipal Affairs had notified that a considerable number of appointments/promotions were made in a number of Urban Local Bodies against sanctioned vacancies holding erstwhile scale of Rs.380-910/- and below during period from 1<sup>st</sup> January, 1986 to 13<sup>th</sup> July, 1994 without obtaining prior approval of the Government and since, in absence of the approval of the Government, the Urban Local Bodies were facing difficulties relating to the finalization of the pension

cases of the retired employee, it was ordered that the Government after due consideration was pleased to decide that the approval of the Government for such appointments/promotions for the aforesaid period made against the vacancies in sanctioned posts in the concerned Urban Local Bodies, shall be deemed to have been accorded. Still later, by a further order dated 7<sup>th</sup> May, 2009 the revised pay scale of Rs.4000 - 8850/-for the period between 14<sup>th</sup> July, 1994 to 15<sup>th</sup> October, 2000 was taken into consideration and it was ordered that the Governor for quick disposal of all pending cases was pleased to hereby authorize the Director of Local Bodies, West Bengal to issue orders according post facto approval of appointments/promotions made by the municipality against sanctioned vacancies holding erstwhile scale of pay of Rs.380-910/- since revised to Rs.4000-8850/-on case to case basis after due examination/enquiry.

5. Subsequently, by a further office order dated 19<sup>th</sup> August, 2009, the memorandum dated 7<sup>th</sup> May, 2009 was further amended in the following terms.

*“1) In the last para for the words “Scale of Pay of Rs.380-910/- since revised to Rs.400-8850/- and below “the words “scale 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.2850-4680/- shall be substituted;*

*2) after the last para the following new paragraph shall be inserted:*

*“The Governor is further pleased to direct that no approval of the State Government is required in the cases of appointments/promotions made by the Municipalities within the foresaid period against sanctioned vacancies holding erstwhile scales of Pay from Scale of pay of Rs.230-414/-, since revised to Rs.2700-4400 to the 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 resolution adopted by the Board of Councillors of the Municipalities for making appointments/promotions against the sanctioned vacant posts holding the aforesaid Scales of Pay but implementation of such resolution has been kept pending till obtaining Government approval during the aforesaid period”.*

6. Though, having regard thereto, the petitioners were otherwise entitled to be accorded approval by the authorities, the same was not done. Subsequently, the Government of West Bengal, Department of Municipal Affairs had issued a further order noting that the Government of West Bengal vide its earlier order dated 7<sup>th</sup> May, 2009 authorizes the Director of Local Bodies, West Bengal to issue office order according post facto approval to the initial appointments/promotions made by the municipality against sanctioned vacancies holding erstwhile scale of pay of Rs.380-910/- since revised to Rs.4000-8850/- for the period 14<sup>th</sup> July, 1994 to 15<sup>th</sup> October, 2000 on case to case basis after examining/enquiry. However, by such order

of the Governor signed by the Additional Secretary to the Government of West Bengal dated 6<sup>th</sup> February, 2023, the Governor was pleased to observe as follows:-

*“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 14th 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 6 WPA 25403 of 2024 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.”*

7. Mr. Sarkar, learned advocate appearing for the petitioner in all the aforesaid writ petitions has since drawn attention of this Court to the definition of the term employee as appearing in the West Bengal Municipal (Employee’s Death-cum-Retirement Benefits) Rules, 2003 and would submit that the employee means and includes any person who is in whole time employment of the municipality or notified area authority and draws his pay from the fund of the municipality or

notified area authority. According to him the petitioners were the employees of the municipality and were appointed against sanctioned posts. Having regard to the above, the appointments of the petitioners are deemed to have been done as per the extant provisions of the West Bengal Municipal Act, 1993 and consequentially, the same has the ratification of the State Government following which no further order is necessary. He has also drawn the attention of this Court to the order of regularization of service of four (4) several employees of Baidyabati Municipality dated 4<sup>th</sup> November, 2024 who are similarly placed as that of the petitioners, as also the office order dated 24<sup>th</sup> November, 2025 which has been placed before this Court and is taken on record. By relying on the above documents he would submit that all the above employees who have been issued appropriate Pension Payment Orders are similarly placed as that of the petitioners and their names feature in the office order dated 20<sup>th</sup> November, 2017 issued by the municipality. As such similar benefit should be extended to the petitioners.

8. Mr. Sukanta Ghosh, learned advocate appearing for the Director of Local Bodies in WPA 11681 of 2026 and WPA 11687 of 2026 has placed before this Court a report dated 27<sup>th</sup> July, 2026 and would submit that since the post of Road Collie is not sanctioned as per the approved staff pattern of Bidyabati Municipality and since, having regard to the office order dated 6<sup>th</sup> February, 2023 unless, the appointment is against the sanctioned post, no benefit can be afforded

to the petitioners. Let the reports as filed before this Court be taken on record.

9. Having heard the learned advocates appearing for the respective parties and to morefully appreciate the contents of the above report issued by the Director of Local Bodies, West Bengal & Ex-Officio Special Commissioner, U.D. & M.A. Department dated 27<sup>th</sup> July, 2026, this Court has scrutinized the records. Upon scrutiny of the records this Court finds that in all cases, the appointments of the petitioners have been made against the posts which the municipality claims to be pre-1978 sanctioned vacant posts. This apart, this Court has also examined the office order dated 4<sup>th</sup> November, 2024 and the office order dated 24<sup>th</sup> November, 2025 wherein a total 11 candidates were accorded regularization and in both the aforesaid office orders, the post of '*Road Coolie*' appears. Incidentally, the persons who had been regularized and have been accorded with the retiral benefit are employees of the municipality whose names feature in the office order dated 20<sup>th</sup> November, 2017 along with the petitioners. This apart, in the case of Radhapada Gangaputra, the petitioner in WPA 11687 of 2026, the regularization to the said post was made in terms of an order passed by a Coordinate Bench of this Court. The concerned gentleman, who has prepared the report dated 27<sup>th</sup> July, 2026 obviously did not find time to consider the records before preparing such report. Incidentally, it is the same gentleman under whose signature the orders dated 4<sup>th</sup> November, 2024 and 24<sup>th</sup> November, 2025 have been issued regularizing service of the employees amongst whom the employees in

the post of Road Coolie were also present and regularized. This Court is unable to fathom the circumstances under which an attempt would be made by the Director of Local Bodies to withhold information from this Court by holding out that the post of *Road Coolie* is not a sanctioned post. This Court does not appreciate the conduct of the Director of Local Bodies in taking such stand, especially when employees in the selfsame post of '*Road Coolie*' had been regularized. In fact amongst the 11 several ex-employees of Baidyabati Municipality who had been regularized, four of such ex-employees discharged their functions as *Road Coolie*.

10. In the light of the above and since the petitioners were appointed in the scale of pay as noted above in sanctioned vacant posts on the respective dates noted hereinabove and since their appointments were made between 14<sup>th</sup> July, 1994 and 30<sup>th</sup> September, 2003, the same is deemed to have been done as per the extant provisions of the West Bengal Municipal Act, 1993 and has the ratification of the State Government.

11. Considering the above, I am of the view that the objection raised by the Director of Local Bodies that the petitioners' appointments were not against sanctioned posts, disentitling the petitioners to the post retiral benefit including pension, cannot be sustained. The clarificatory order issued by the Additional Secretary to the Government of West Bengal dated 6<sup>th</sup> February, 2023 read with the office memorandum no.1535/DLB-15020(12)/4/20224-SE(DLB)-DLB dated 4<sup>th</sup> November, 2024, and the memorandum no.1806/DLB-15020(12)/7/2025-

SEC(DLB)-DLB dated 24<sup>th</sup> November, 2025 issued by the Director of Local Bodies regularizing the service of the employees of the municipality were obviously not considered by the concerned Director of Local Bodies while preparing the report.

12. In the light of the above, the respondents ought not have denied the retiral benefits to the petitioners. Accordingly, I direct the respondent no.4 to forthwith take steps to accord approval and the respondent no.6 to process the petitioners' Pension Payment Orders and the respondent no.2 to disburse the retiral benefits in favour of the petitioners within a period of eight weeks from the date of communication of this order. It is made clear that all the respondents must act in tandem to give effect to the above order.

13. With the above observations and directions the aforesaid writ petitions are disposed of.

Urgent photostat certified copy of this order, if applied for be given to the parties upon compliance with the requisite formalities.

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

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A.R. (Court)