

(2025) 09 CAL CK 0752
In the Calcutta High Court, Appellate Side
Case No : WPA 6883 Of 2024

Soumendra Nath Chatterjee

APPELLANT

Vs

State of West Bengal and Ors

RESPONDENT

Date of Decision : 25-09-2025

Acts Referred:

West Bengal Municipal (Employees' Death-cum-Retirement Benefits) Rules, 2003 — Section 2(k)

West Bengal Municipal (Employees' Service) Rules, 2010 — Rule 56

Citation : (2025) 09 CAL CK 0752

Hon'ble Judges : Gaurang Kanth, J

Bench : Single Bench

Advocate : Akashdeep Mukherjee, Soummiyadeep Nag, Soumali Das, Chandrani Bhattacharya, Shamim Ul Bari

Final Decision : Disposed Of

Judgement

Gaurang Kanth, J

1. The Petitioner in the present writ petition is seeking a direction against the Respondent Municipality in granting post-facto approval to the appointment to the Petitioner in the post of Mazdoor and promotion to the post of Collecting Sarkar in the Respondent Municipality. The Petitioner is also seeking a direction upon the respondent to grant and release the full pension and gratuity benefits to him as per his entitlement and in accordance with law.

2. The facts of the case as is emerged from the present writ petition is as follows:

3. The Petitioner was initially appointed as a Mazdoor on 01.04.1983 by the Respondent Municipality. Subsequently, vide order dated 01.03.1985, the Vice Chairman of the Respondent Municipality promoted the Petitioner to the post of Office Caretaker. Thereafter, pursuant to the resolution of the Board of Councillors of the Respondent Municipality dated 27.02.1995, the Chairman of the Respondent Municipality, vide letter dated 29.03.1995, further promoted the

Petitioner to the post of Collecting Sarkar.

4. During his tenure of service, the Petitioner was paid salary and extended all service-related benefits applicable to Government employees. The benefits under ROPA 1990, ROPA 1998, ROPA 2009, as well as the Career Advancement Scheme, were duly extended to him.

5. The service book of the Petitioner was duly prepared and authenticated by the Chairman and the Executive Officer of the Respondent Municipality, and the same reflects the entire service record of the Petitioner.

6. The Executive Officer of the Respondent Municipality, vide letter dated 24.03.2015, directed the Petitioner to submit requisite documents before the Establishment Department for the purpose of processing his pensionary benefits in accordance with law.

7. Upon rendering unblemished service for approximately 33 years, the Petitioner superannuated from the services of the Respondent Municipality on 31.03.2016.

8. However, as the Respondent Municipality failed to release the retiral dues of the Petitioner, he was constrained to file WPA No. 19534 of 2018. This Court, vide order dated 05.03.2021, disposed of the said writ petition with liberty to the Petitioner to file a fresh representation before the Respondents therein within two weeks, and further directed the said

Respondents to consider and decide the representation within four weeks thereafter.

9. Pursuant to the said order, the Petitioner submitted a fresh representation, whereupon the Director, Local Bodies, conducted a hearing on 26.03.2021. However, no final order was passed. Thereafter, the Petitioner once again submitted a representation dated 22.12.2023, which too has not elicited any response from the authorities.

10. The Respondent Municipality, vide letter dated 07.09.2023, even requested the Director, Pension, Provident Fund & Group Insurance (DPPG) to release pension and gratuity in favour of the Petitioner in terms of Order No. 110/UDMA-25011(11)/109/2022-LSG SEC dated 06.02.2023.

11. Despite the above, the Respondents have released only part of the retiral benefits and are paying the Petitioner provisional pension on a monthly basis.

12. Aggrieved by the inaction of the Respondents in not releasing his full retiral benefits and regular pension, the Petitioner has been constrained to prefer the present writ petition, inter alia, seeking post facto approval of his appointment as well as the release of his legitimate retiral dues.

Submission on behalf of the Petitioner

13. Learned Counsel for the Petitioner submits that the Petitioner was appointed on 01.04.1983 and retired from the services of the Respondent Municipality on

31.03.2016, after rendering more than 33 years of unblemished service. It is contended that, by virtue of such continuous and satisfactory service, the Petitioner has acquired a vested right to pension, gratuity, and all other admissible retiral benefits.

14. Learned Counsel further places reliance on Order No. 207/MA/O/C-4/1A-7/2000 dated 07.05.2009 issued by the Municipal Affairs Department, Government of West Bengal, whereby the Director, Local Bodies, West Bengal has been authorized to grant post-facto approval to the initial appointment and/or promotion of municipal employees made against sanctioned vacancies in the erstwhile pay scale of Rs. 389-910/- (since revised to Rs. 4000-8850/- and below) during the period from 14.07.1994 to 15.10.2000, on a case-to-case basis after due examination and enquiry. It is urged that the case of the Petitioner squarely falls within the ambit of the aforesaid order, and therefore the Director, Local Bodies, is competent and empowered to accord post-facto approval to the appointment and promotions of the Petitioner.

15. Learned Counsel for the Petitioner further submits that the Petitioner, being a retired employee, is suffering acute financial hardship owing to the non-release of his lawful retiral dues, despite the passage of nearly ten years since his superannuation. Such prolonged deprivation of pensionary benefits, it is argued, is wholly unjust, arbitrary, and violative of the rights guaranteed to the Petitioner under law.

Submission on behalf of Respondent No. 2 (UDMA Department, Govt. of West Bengal)

16. An affidavit has been filed on behalf of the Deputy Secretary, Urban Development and Municipal Affairs (UDMA) Department, wherein it has been categorically stated that the UDMA Department is not the competent authority for sanctioning leave of municipal employees. Reliance has been placed on Rule 56 of the West Bengal Municipal (Employees' Service) Rules, 2010, which stipulates that the Chairman of the concerned Municipality, or any other officer duly authorised by him, is the competent leave-sanctioning authority. It has further been submitted that under Section 2(k) of the West Bengal Municipal (Employees' Death-cum-Retirement Benefits) Rules, 2003, the expression 'pension sanctioning authority' means the Chairman of the Municipality or the Notified Area Authority, or any person authorised to exercise the powers, duties and functions of the Chairman, or a subordinate officer duly empowered in this regard.

17. It is also averred in the said affidavit that the Director, Local Bodies, has already approved and verified the service book of the Petitioner and forwarded the same to the Respondent Municipality for onward submission of the pension papers to the Director of Pension, Provident Fund & Group Insurance (DPPG) for issuance of the Pension Payment Order (PPO) in favour of the Petitioner. In light of the above, it has been clarified that neither the Department nor the Director,

Local Bodies, has any further role to play in the matter.

Submission on behalf of the Respondent No. 5&6 (Kamarhati Municipality)

18. The Respondent Municipality has also filed an affidavit, wherein it is stated that the service file of the Petitioner has been duly forwarded to the Director, Local Bodies, and to the Director of Pension, Provident Fund & Group Insurance (DPPG) for the purpose of generating the Pension Payment Order (PPO) and finalising the quantum of retiral benefits payable to him. It is further averred that the DPPG, vide Memo dated 21.05.2025, raised an objection regarding an alleged period of unauthorised leave of 2 years, 11 months, and 3 days availed by the Petitioner between 07.06.2006 and 10.05.2009.

19. The affidavit further clarifies that the West Bengal Municipal (Employees' Service) Rules, 2010 came into force only on 09.03.2010, and prior thereto no codified service rules were in operation. It is stated that the then Commissioners-in-Charge (CICs), in their meeting held on 07.05.2009, had considered and condoned the absence of the Petitioner and had permitted him to resume duty.

20. It is also recorded in the said affidavit that the Director, Local Bodies, duly verified and accorded sanction to the service of the Petitioner on 24.05.2024, where after the file was forwarded to the DPPG for the issuance of the PPO and determination of the final pensionary and gratuity amounts. Until such time as the PPO is generated, the Respondent Municipality has expressed its inability to disburse the full pension and gratuity.

21. The affidavit further discloses that, pending finalisation of the pension and gratuity, the Respondent Municipality has already released ad-hoc gratuity of Rs. 1,45,000/–, provident fund of Rs. 94,742/–, and leave encashment of Rs. 45,220/–, and has been paying provisional pension of Rs. 10,530/– per month to the Petitioner. It is lastly stated that, in view of the DPPG's letter dated 21.05.2025 directing the Municipality to obtain the necessary approval from the UDMA Department for condonation of the aforesaid period of 2 years, 11 months, and 3 days and for regularisation of the Petitioner's service tenure, the matter was placed before the Board of Councillors. In its meeting dated 25.06.2025, the Board sanctioned the case and resolved to forward the same to the UDMA Department for necessary approval, as suggested by the DPPG.

Legal Analysis

22. This Court has heard the arguments advanced by the learned counsel for the parties and has carefully perused the pleadings and documents placed on record.

23. From the materials available on record, it is evident that none of the Respondents have disputed the Petitioner's entitlement to pension and other retiral benefits. Respondent No. 2 has already approved and verified the service of the Petitioner. The only objection raised pertains to an alleged period of unauthorised leave of 2 years, 11 months, and 3 days availed by the Petitioner between 07.06.2006 and 10.05.2009, as pointed out by the DPPG.

24. The stand of the Respondent Municipality is that the West Bengal Municipal (Employees' Service) Rules, 2010 came into force only on 09.03.2010 and that prior thereto no codified service rules were in existence. It is further their case that the then Commissioners-in-Charge (CICs), in their meeting held on 07.05.2009, had duly considered and condoned the absence of the Petitioner and permitted him to resume duty.

25. As per the affidavit filed on behalf of the Deputy Secretary, Urban Development and Municipal Affairs (UDMA) Department, Rule 56 of the West Bengal Municipal (Employees' Service) Rules, 2010 stipulates that the Chairman of the concerned Municipality, or any officer duly authorised by him, is the competent leave-sanctioning authority. Therefore, the leave of a municipal employee is to be sanctioned at the municipal level and does not require approval of the UDMA Department.

26. In the present case, the absence of the Petitioner was duly considered and condoned by the Commissioners-in-Charge (CICs) in their meeting dated 07.05.2009, whereupon the Petitioner was permitted to resume duty. Furthermore, the Director, Local Bodies, has already verified and approved the Petitioner's service book. The affidavit filed by the Deputy Secretary, UDMA, categorically affirms that the leave sanctioning authority rests with the Municipality and that the UDMA Department has no role in this regard.

27. In view of the clear stand taken by the UDMA Department, this Court holds that there is no requirement for obtaining any further approval from the said Department in respect of the leave period of the Petitioner.

28. Accordingly, the DPPG is directed to issue the Pension Payment Order (PPO) in favour of the Petitioner within a period of two weeks from the date of communication of this order. Upon issuance of the PPO, the Respondent Municipality shall release the arrears of pension, gratuity, and all other retiral dues of the Petitioner within a further period of four weeks.

29. It is a matter of grave concern that the Petitioner, despite having retired nearly a decade ago, has been compelled to litigate for the release of his lawful retiral dues. In these circumstances, all the Respondents are directed to ensure strict adherence to the timelines stipulated herein, without any further delay or default.

30. With the aforesaid directions, the present writ petition stands disposed of.