
(2018) 01 CAL CK 0149
In the Calcutta High Court
Case No : 6506 (W) of 2015

Soumitra Sengupta

APPELLANT

Vs

The State of West Bengal & Ors.

RESPONDENT

Date of Decision : 15-01-2018

Acts Referred:

[West Bengal Municipal Act, 1993](#), [Section 54\(3\)](#) - Cadre of common municipal service, appointments, etc

Citation : (2018) 01 CAL CK 0149

Hon'ble Judges : Debasish Kar Gupta

Bench : Single Bench

Advocate : Amal Baran Chatterjee, Sasthi Charan Dhara, Samiran Mondal, Tapan Kumar Mukherjee, Smita Das Dey

Judgement

1. Let the supplementary affidavit to this writ petition filed by the petitioner, affidavit-inopposition filed on behalf of the State respondent and the reply thereto filed on behalf of the petitioner be kept on record.
2. This is an application filed under Article 226 of the Constitution assailing an order dated June 18, 2014 passed by the Director of Local Bodies, Government of West Bengal.
3. By virtue of the impugned order, the representation of the petitioner for regularizing his appointment to the post of Lower Division Clerk, Registrar, Birth and Death and Assistant Law Officer respectively for different periods was rejected.
4. Having heard the learned Advocate appearing on behalf of the respective parties as also after considering the facts and circumstances of this case, I find that the petitioner was initially appointed to the post of Assistant Teacher under the respondent Municipality with effect from May 2, 1987. Subsequently he was transferred to the post of Lower Division Clerk under the respondent Municipality with effect from August 27, 1996 by virtue of an order passed by the Chairman

of the respondent Municipality. Thereafter he was appointed to the post of Registrar, Birth and Death of the respondent Municipality by an order dated May 3, 2007 passed by the Chairman of the respondent Municipality.

5. By a further order dated June 29, 2013 passed by the Chairman of the respondent Municipality, the petitioner was appointed to discharge the function of the Head Teacher of Patpur Primary School run by the respondent Municipality but all along the petitioner was shown as discharging his function in the post of Assistant Teacher under the respondent Municipality. The petitioner submitted a representation before the Director of Local Bodies, Government of West Bengal on January 24, 2014.

6. Since the above representation was not disposed of, the petitioner filed a writ petition being W.P. No. 5008 (W) of 2014 (Soumitra Sengupta - Vs - The State of West Bengal & Ors.). The above representation was disposed of by an order dated February 24, 2014 with a direction upon the Director of Local Bodies, Government of West Bengal to dispose of the above representation in compliance of the above order, the order impugned to this writ petition was passed.

7. From the impugned order it appears that the Director of Local Bodies, Government of West Bengal conducted an enquiry and in depth enquiry in the matter of transfer/appointment of the petitioner to the aforesaid different posts by deputing the Deputy Director of Local Bodies, Burdwan Division and obtained his report.

8. After giving opportunity of hearing to the petitioner as also the representative of the respondent Municipality and considering the above report, the impugned order was passed.

9. The reasons for rejecting the prayer of the petitioner are as follows: (i) No material was placed before the above Authority showing a decision of the respondent Municipality by way of adopting resolution in the meeting of its Board of Councilors either to transfer the petitioner or to appoint him to the posts mentioned above;

(ii) No material was placed before him to show that any of the aforesaid appointments were against any sanctioned vacancy under the respondent Municipality;

(iii) No material was produced before him to show that any of the aforesaid appointments of the petitioner was approved by the State Government.

10. On the basis of the aforesaid finding, the representation of the petitioner was rejected with further observation that the post of Head Teacher of the School concerned run by the respondent Municipality could be treated as appointment against a regular vacancy and after obtaining approval under Section 54(3) of the West Bengal Municipal Act, 1993, his appointment to the above post could be regularized.

11. Though it is submitted by Mr. Chatterjee, learned Advocate appearing on behalf of the petitioner that subsequently appointments in the post of Lower Division Clerks were approved by the State Government, the petitioner was deprived of such similar benefit, I find that no material is produced before this Court to show that the petitioner stands on the same footing with those employees of the respondent Municipality. Therefore, this will not help the petitioner in any way.

12. Considering the above reasons, I do not find any error or irregularity in the impugned order. Therefore, the writ petition stands dismissed.

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

14. Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.