

07.12.2020

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Court No.25
Video Conference

W.P.A. No. 8490 of 2020

Sajal Kumar Khanra

- Versus -

The State of West Bengal & Others

Mr. Santi Pada Pahari

... for the petitioner.

Mr. Joytosh Majumder, Ld. G.P.,

Mr. Biswabrata Basu Mallick,

Mr. Rajat Datta

... for the State.

The present writ petition has been preferred *inter alia* praying for issuance of necessary direction upon the respondents to grant pensionary benefits to the petitioner after retirement upon counting the past service rendered by him with effect from 16th September, 2003 as qualifying service.

Mr. Pahari, learned advocate appearing for the petitioner submits that the petitioner was appointed as an organizing teacher in Science group in the Mirzapur Jr. High School (in short, the said school) on 6th June, 1992. Seeking recognition of the said school, a writ petition was preferred and on the basis of the judgment delivered in the same on 21st December, 2001 recognition was granted to the said school with effect from 16th September, 2003 and the name of the petitioner was forwarded for necessary approval *vide* memo

dated 18th December, 2003 issued by the Additional District Inspector of Schools (S.E.), Contai Sub Division. Even thereafter, appropriate order of approval was not issued. Aggrieved thereby, the petitioner had to approach this Court by a writ petition, being W.P. No. 13579(W) of 2004, which was disposed of by an order dated 29th November, 2012 directing the authorities to regularise the service of the petitioner. Aggrieved thereby, an appeal was preferred but the same was dismissed. The petitioner filed a contempt application and on the basis of the order passed in the same, the petitioner was ultimately granted approval of appointment with effect from 25th November, 2014, as would be explicit from the memo dated 9th December, 2014 issued by the respondent no.3 in a different school, namely, Uttar Matalia Gita Rani Vidyabhawan (HS), as there was no clear vacancy in Mirzapur Jr. High School.

He argues that there is no dispute that the petitioner had rendered continuous service in the said school as an organizing teacher and as such his service ought to have been approved with effect from the date of recognition of the said school. As the order of regularization issued in favour of the petitioner in the earlier writ proceeding has attained finality, the respondents

cannot deny grant of approval of appointment to the petitioner with effect from 16th September, 2003, which would ultimately entitle him to pensionary benefits. Detailing the exceptional circumstances involved, a representation was submitted on 9th October, 2002 for condonation of the deficiency in qualifying service and for grant of pensionary benefits after his scheduled retirement on 21th June, 2021 but the same has not been attended to. Aggrieved thereby, the petitioner approached this Court.

Per contra, Mr. Majumder, learned Government Pleader appearing for the State respondents submits that abiding by the directives issued by this Court and even though there was no regular vacancy in Mirzapur Jr. High School, the petitioner was accommodated in a different school, namely, Uttar Matalia Gita Rani Vidyabhawan (HS). Such approval with effect from 24th November, 2014 was also accepted by the petitioner. Now after six years the petitioner has come before this Court praying for approval from 16th September, 2003.

Records reveal that complying with the order of this Court, the petitioner was granted approval with effect from 25th November, 2014. Such approval was duly accepted by the petitioner without raising any objection whatsoever. The petitioner is still in service and is due to retire on

21st June, 2021. In the midst thereof, the petitioner has come with a prayer for condonation of deficiency in qualifying service about six years after the issuance of the memo dated 9th December, 2014.

In the said conspectus and as under the relevant Rules the authorities have no jurisdiction to condone such deficiency in qualifying service for a period of more than three years, this Court is unable to grant the relief, as prayed for by the petitioner and the writ petition is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties upon compliance of all necessary formalities.

(Tapabrata Chakraborty, J.)