

07.12.2020

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Court No.25
Video Conference

W.P.A. No. 8531 of 2020
Prabhat Kumar Mondal
- Versus -
The State of West Bengal & Others

Mr. Lal Ratan Mondal
... for the petitioner.

The present writ petition has been preferred *inter alia* praying for issuance of necessary direction upon the respondents to grant notional benefit with effect from 1st December, 1998.

Mr. Mondal, learned advocate appearing for the petitioner submits that the petitioner participated in a selection process for appointment to the post of an Assistant Teacher in the Katalmari High School (in short, the said school). A panel was initially prepared and the same was subsequently recast and accordingly, the petitioner came within the zone of consideration for appointment. As the authorities did not recast the panel, the petitioner was constrained to approach this Court by a writ petition, being W. P. no.15563 (W) of 1998. By an order dated 18th December, 1998, the respondent no.3 herein was directed to take appropriate steps. About six years thereafter, the petitioner was ultimately appointed and approved to the concerned post with effect

from 23rd August, 2004 *vide* memo dated 17th September, 2004, issued by the respondent no.3.

According to Mr. Mondal, the petitioner's appointment was withheld illegally and the delay towards grant of approval of appointment is attributable to the respondents. Grant of full pensionary benefits admissible under the pension scheme requires twenty years of qualifying service. Due to belated approval of appointment, there had been a deficiency of about two years in the qualifying service of the petitioner and on such ground he would be deprived of full pensionary benefits after his retirement as scheduled on 31st March, 2022. Aggrieved thereby, the petitioner submitted a representation on 13th August, 2020, but the same has not been considered.

The petitioner was granted approval of appointment with effect from 23rd August, 2004. Such appointment and approval was duly accepted by the petitioner without raising any objection. About fifteen years thereafter, the petitioner submitted a representation for condonation of deficiency in qualifying service on 13th August, 2020. There had been an inordinate and unexplained delay on the part of the petitioner. Furthermore, under the relevant Rules the authorities have no jurisdiction to condone such

deficiency in qualifying service for a period of more than two years.

In the said conspectus, this Court is reluctant to exercise any discretion in favour of 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.)