

11.12.2020

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Court No.25
Video Conference

W.P.A. No. 10027 of 2020
Manmatha Mondal
- Versus -
The State of West Bengal & Others

Mr. Moniruzzaman
... for the petitioner.
Mr. Supriyo Chattopadhyay,
Ms. Iti Dutta
... for the State.

The present writ petition has been preferred *inter alia* praying for condonation of deficiency in qualifying service towards grant of pensionary benefits.

Mr. Moniruzzaman, learned advocate appearing for the petitioner submits that the petitioner was an organizing teacher in Binderpur Junior High School (in short, the said school) and was rendering his services since the year 1984. The said school was ultimately granted recognition with effect from 1st May, 2001. Claiming approval, the petitioner and others approached this Court earlier and ultimately by a memo dated 6th February, 2009 issued by the respondent no.3, the petitioner's service was approved with effect from 6th February, 2009 itself. Subsequent thereto, the petitioner and other teachers of the said school approached the competent authority for grant of approval with effect from the date of recognition of the said school, i.e., 1st May, 2001. Thereafter, an

enquiry was conducted and verifying the records, a memo dated 31st December, 2014 was issued by the respondent no.4 observing that the said school had been functioning for the period from 1st May, 2001 to 6th February, 2009. In spite of such finding, approval with effect from 1st May, 2001 was withheld.

The petitioner retired on 30th September, 2018 but was not granted pension due to a deficiency of 4 months, 5 days in qualifying service. In view of the continuous service rendered by the petitioner, he is entitled to condonation of such deficiency. In support of the petitioner's claim, the school authorities adopted a resolution on 12th June, 2018 and the same was forwarded to the respondent no.4 on 20th July, 2018 and thereafter, the petitioner also submitted a representation to the respondent no.2 on 23rd July, 2018 but the same has not been considered.

Mr. Chattopadhyay, learned advocate appearing for the State respondents submits the Secretary, School Education Department, Government of West Bengal is the competent authority to decide as to whether the deficiency in qualifying service can be condoned. However, the petitioner has not submitted any representation to

the said authority. In view thereof, there has been no inaction on the part of the respondents.

Indisputably, under the Pension Scheme jurisdiction stands conferred upon the Government to condone deficiency of six months in qualifying service. Pension is a retirement benefit partaking of the character of regular payment to a person in consideration of the past service rendered by him and is claimable as a matter of right. Grant of pensionary relief to a retired employee was introduced by the Government as a social beneficial scheme and the petitioner's claim needs to be decided in the light of such proposition of law.

In view thereof, this Court directs the petitioner to submit a representation to the Secretary, School Education Department, Government of West Bengal along with all necessary documents including the annexures to this writ petition within two weeks.

In the event, such representation is submitted, the Secretary, School Education Department, Government of West Bengal shall consider the same, upon granting an opportunity of hearing to the petitioner and the school authorities and take a decision, in accordance with law and in the light of the observations made in

this order and communicate the same to the petitioner with a period of four weeks from the date of communication of this order.

It is made clear that on the date scheduled for hearing, the school authorities shall also appear and produce all relevant records.

Needless to observe, in the event the petitioner's claim deserves acceptance necessary follow up steps shall be taken by all the respondents forthwith.

With the above observations and directions the writ petition is disposed of.

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

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

(Tapabrata Chakraborty, J.)