

24-09-2021
ct no. 05
Sl. 05
Sayandeep

WPA 4293 of 2019

Madan Mohan Biswas
-Versus-

State of West Bengal & Ors.
(Via Video Conference)

Mr. Shyamal Kumar Das
Mr. Ajay Barman Roy

..... for the petitioner

Ms. Chaitali Bhattacharyya

..... for the State

Writ petitioner is a retired assistant teacher who was in receipt of pass graduate scale of pay from the date of his appointment with effect from 1st January, 1974. Writ petitioner completed his tenure as an assistant teacher and ultimately superannuated in the month of February, 2011. The grievance of the writ petitioner is failure on the part of the respondent authorities, while writ petitioner was working as an assistant teacher of the school, in extending benefit of pay protection in his favour. It has been submitted by learned advocate representing the writ petitioner that there was certain representations which were preferred prior to superannuation of the writ petitioner for granting benefit of pay protection and those were not taken care of by the respondent authorities. Writ petitioner prays for grant of pay protection by filing a writ petition in 2019.

Ms. Chaitali Bhattacharyya, learned senior Government advocate, appears on behalf of the State respondents and opposes the prayer of the writ petitioner on the ground that writ petitioner has already retired in the month of February, 2011 and petitioner failed to take any steps contemporaneously for redressal of his grievance save and except preferring certain representations during his tenure as an assistant teacher. It is contended that after 8 years of retirement, writ petitioner has no case on pay protection and the same is liable to be rejected.

This Court has considered the rival contentions of the parties and also considered the facts relating to this case. It appears that the writ petitioner was appointed in 1974 as an assistant teacher and after completing his tenure as an assistant teacher ultimately retired in the month of February, 2011 and subsequent thereto, upon compliance of all formalities, pension payment order was issued vide memo dated 12th August, 2011. Writ petitioner is in receipt of retiral dues and monthly pension regularly. The present writ petition has been filed 8 years after the retirement of the writ petitioner with a prayer for grant of pay protection. Except preferring certain representations no contemporaneous challenge was thrown to the inaction on the part of the respondent authorities in

granting benefit of pay protection to the writ petitioner prior to his retirement. It is settled proposition of law that preferring representations one after another cannot explain the delay.

In this conspectus, the writ petition stands dismissed.

Affidavit-of-service filed in Court today be kept with the record.

There shall be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

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

(Saugata Bhattacharyya, J.)