

08.07.2021

BP
Sl. 4
Court No. 17

WPA 7356 of 2021

(Via Video Conference)

Balaram Ghosh

Vs.

The State of West Bengal & Ors.

Mr. Shamim ul Bari

Ms. Molly Saha

..for the petitioner.

Mr. Arindam Chattopadhyay

..for D.P.S.C.

Mr. Supriya Chattopadhyay

Ms. Iti Dutta

..for the State.

This matter relates to pensionable service of the petitioner. The petitioner has placed an order passed by this court in W.P. 20546 (W) of 2019 wherein this court while expressing its opinion in favour of the petitioner also granted liberty to the Secretary, Government of West Bengal, School Education Department that if for any other pressing reason, the deficiency in qualifying service of the petitioner could not be condoned, the Secretary should communicate the reasons to the petitioner within a specified period.

Mr. Supriyo Chattopadhyay, learned advocate for the State has placed the order passed by the Principal Secretary of School Education Department wherefrom it

appears that once a benefit was granted to the petitioner whereby his qualifying service was enhanced from 7 years 10 months 30 days to 9 years 11 months 16 days.

By giving the notional benefit of service period due to delay in issuing appointment letter from 16.06.1997 to 30.06.1999 his service period became 16.06.1997 to 31.05.2007 i.e. 9 years 11 months 16 days and he had a shortfall of 14 days in qualifying service for pension which is 10 years.

In another matter considered by the Principal Secretary, School Education Department referred to by the petitioner (Katchet Ali's matter) the Principal Secretary clarified that in the said Katchet Ali's matter after giving the notional benefit as to service period in compliance with this court's order, Katchet Ali's service became more than 10 years.

But here, even after giving the notional benefit in compliance with this court's order the petitioner's service becomes less than 10 years.

In this case the petitioner has given a benefit once i.e. the notional benefit. He now claims benefit for the second time i.e. benefit to be given on an already given benefit for condoning the short period of 14 days from qualifying service for pension eligibility. Once he

was given the benefit of service length by this court by allowing him notional benefit. From that day, when he got the benefit of notional benefit it was known to him that his qualifying service for pension entitlement would be 14 days short from 10 years.

Accepting this position he worked as a Teacher of the School. Now he cannot come to court for getting double benefit. Without working as a teacher, by order of court, his tenure has been enhanced once.

There is no reason as to why such double benefit would be granted to him. As there is no reason to grant him the further benefit, the concerned Officer has not exercised the power under sub rule (iv) of paragraph 7 of chapter III of West Bengal Recognized Non-Government Educational Institution Employees (Death-cum-Retirement Benefit) Scheme, 1981. If this court directs further addition of 14 days to his service even after granting him the notional benefit there would be no sanctity of the service rule which says qualifying service for pension would be 10 years.

In my view, a person cannot get double benefit by approaching this court by filing one after another writ application when he does not have the legal right to get some benefits under the law. Sympathy cannot override the law. I do not find any merit in this writ application

and the writ application is dismissed.

No order as to costs.

(Abhijit Gangopadhyay, J.)