

23.04.2021.
Item no. 171.
Court No.13
ap

**W.P.A. No. 8781 of 2021
(Through Video Conference)**

**Sri Tapan Mistri
Versus
The State of West Bengal & Ors.**

Mr. Umesh Kumar Singh.

...For the petitioner.

Mr. Amal Kumar Sen,
Mr. Sabyasachi Mondal.

...For the CSTC.

Mr. Pantu Deb Roy, AGP
Mr. Anand Farmania.

...For the State respondents.

The petitioner claims pension from the Calcutta State Transport Corporation (CSTC). The petitioner has voluntarily retired under a Scheme of the CSTC in 2018 at the age of 45.

The DCRB Regulations of the CSTC stipulate a minimum service of 25 years of service or reaching the age of 50 years for the purpose of entitlement to pension. The petitioner has completed only 10 years of service.

The petitioner relies upon a Circular of the CSTC dated 20th May, 2011 which stipulates that the linkage of full pension with 33 years of qualifying service should be dispensed with. According to the Circular, pension can be released to the employees of the CSTC even with minimum qualifying service of 20 years with proportionate reduction of pension. Even in the case of persons, who have rendered 10 years of service but

less than 20 years with proportionate reduction, pension has been permitted and allowed.

Mr. Amal Kumar Sen, learned Counsel appearing on behalf of CSTC submits that the said Circular dated 20th May, 2011 applies to normal superannuation and not in the case of the petitioner, who superannuated under the VRS Scheme.

Mr. Sen, however, fairly places before this Court a communication dated 30th August, 2018 of the Additional Secretary, Transport Department, Government of West Bengal to the Managing Director of the Corporation to all the State Transport Corporations. It is submitted that by reason of the said communication, the eligibility for VRS has been reduced to 45 years of age under which the petitioner retired from service.

Further, a resolution of the CSTC dated 10th May, 2019 is also placed indicating that the case of, inter alia, the petitioner has been recommended for pension.

It is recorded in the said resolution that the only hindrance for allowing the pension to the petitioner is Rule 33 of the CSTC's DCRB Regulation of 1990. However, since the State Government has the authority to relax the said age restriction in the DCRB Regulation of 1990, a communication was made to the Principal Secretary, Transport Department,

Government of West Bengal on 30th May, 2019 and 4th November, 2020 in this regard.

This Court is of the view that the claim of the petitioner is indeed sustainable, primarily since the VRS Scheme, under which the petitioner retired, itself reduced eligibility from 50 to 45 years. The minimum age for pension for eligibility under the DCRB Regulations of CSTC must also be consequently reduced to 45 years. In the absence of such reduction, the petitioner would be unfairly discriminated and arbitrarily denied.

The Principal Secretary, Transport Department, Government of West Bengal shall, therefore, take a formal decision in this regard and communicate the same to the CSTC within three months from the date of communication of a copy of this order.

The State shall make available sufficient funds to the CSTC for the purpose of pension to the petitioner.

With the aforesaid directions, the instant writ application shall stand disposed of.

There will be no order as to costs.

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

(Rajasekhar Mantha, J.)

