

Item No.7

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

08.09.2021
Ct-24

WPA 12793 of 2021
Subhas Chandra Mahato

v.

The State of West Bengal & Ors.

Mr. Sandip Ghosh
Ms. Sabita Khutia(Bhunya)
Mr. Partha Sarkar
... for the petitioner.

Mr. Swapan Kumar Datta
Mr. Rajat Dutta
... for the State respondents.

Mr. Suman Basu
... for the respondent no. 3.

The petitioner prays for a direction upon the Director of Public Instruction for grant and disbursement of pension after counting the temporary continuing service before his absorption in the permanent post.

Be it mentioned that the petitioner joined service on November 4, 1989. The petitioner's service was regularized on April 19, 2007. The petitioner retired from service on August 31, 2016.

As the service of the petitioner fell short of the tenure period for being eligible for pension, accordingly, he was not granted pension. The petitioner made a

representation before the respondent authorities including the Director of Public Instruction sometime in March 2021 being annexure P-18 at page 35 of the writ petition.

The learned advocate representing the respondent authorities submits, upon instruction, that the petitioner retired from service long ago in August 2016 and he has made his first representation in March 2021. The petitioner accepted his retiral dues that were disbursed without any demur.

It appears that the petitioner rendered nearly nine years and four months permanent service in the post and he rendered nearly seven years of temporary service and he prays for counting the temporary service period for the purpose of granting pensionary benefits in his favour, the same is a continuing wrong and the delay in approaching the Court may not be fatal in this case. Moreover no third party right has been created in the interregnum.

Accordingly, this Court thinks it fit to direct the Director of Public Instruction being the respondent no. 2 herein to consider the representation made by the petitioner strictly in accordance with law after giving an opportunity of hearing to the petitioner to place all relevant documents in support of his case and thereafter

pass a reasoned order in the matter and communicate the same to the petitioner.

The respondent no. 2 shall consider the matter at the earliest but positively within a period of ten weeks from the date of communication of a copy of this order.

WPA 12793 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)