

07 07.10.2021
rkd Ct.05

W.P.A. 15086 of 2021
(Through Video Conference)

Brojo Nath Ghosal

-vs-

The State of West Bengal & Ors.

Mr. Anajn Bhattacharya,
Ms. Anita Shaw

....for the petitioners.

Mr. Debasish Sarkar

....for the respondent.

Mr. Subhabrata Datta

....for the State.

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

Writ petitioner was an assistant teacher in
a primary school who retired on superannuation on
31st December, 2019. It is submitted by Mr.
Bhattacharya, learned advocate that on the date of
retirement of the writ petitioner the period of
qualifying service was nine years ten months
twenty three days which is short of requisite
approved qualifying service of ten years. It is
submitted that in terms of relevant provisions of
the DCRB Scheme of 1981 a teacher has to
complete ten years approved qualifying service in
order to be eligible to receive pension. Therefore the
writ petitioner was found to be ineligible by the
concerned respondent authorities in getting
pension. Writ petitioner is aggrieved in view of such

decision by the concerned respondent authorities in not extending the benefit of pension upon consideration of the fact that the service period of the petitioner fell short of qualifying service. Petitioner prays for condonation of the period which fell short and to settle the pension case of the writ petitioner in terms of Clause 7(e)(iv) of the DCRB Scheme of 1981.

Mr. Datta, learned advocate appears on behalf of the State respondent and opposes the prayer of the writ petitioner upon placing reliance on the relevant clauses of the said DCRB Scheme, 1981 and it has also been submitted that in view of clause 7(e)(iv) there is no scope for condonation of period which fell short while determining the qualifying service of the writ petitioner for sanction of pensionary benefits.

In view of submissions made on behalf of the respective parties to this writ petition this Court directs the Principal Secretary, School Education Department, to take a decision on the entitlement of the writ petitioner to receive pension upon condonation of the period which fell short of qualifying service in accordance with law within a period of sixteen weeks from the date of communication of this order and the decision to be

taken by the Principal Secretary shall be communicated to the petitioner within two weeks thereafter. The Principal Secretary is directed to give opportunity of hearing to the writ petitioner or his representative before taking such decision.

With the above direction, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)