

IN THE HIGH COURT AT CALCUTTA
(Appellate Side)
CONSTITUTIONAL WRIT JURISDICTION

WP.ST 128 of 2018

Heard on: 23/03/2021

Pronounced on: 13/04/2021

Dr. Deb Narayan Samanta

...Appellant

Through:-
M/s Indradeep Pal and
M.F. Rahaman, Advocates
Mrs. Sougata Pal (Das), Advocate

-Vs-

State of West Bengal & Ors.

...Respondents

Through:-
M/s Joytosh Majumder, Government Pleader
(through Video Conference)
Pinaki Dhole, Advocate

Coram: THE HON'BLE JUSTICE RAJESH BINDAL
THE HON'BLE JUSTICE ANIRUDDHA ROY

ORDER

Rajesh Bindal, J.

1. The petitioner had filed present writ petition challenging the order dated September 04, 2018 passed by the West Bengal Administrative Tribunal, Kolkata (for short, 'the Tribunal') whereby the Original Application filed by him was dismissed.
2. A perusal of the facts noticed by the Tribunal in the impugned order shows that the Original Application was filed by the petitioner before the Tribunal on February 27, 2015. He was transferred from Berhampur Sadar Hospital and was relieved of his duty on December 31, 1985 for his new place of posting, that is, at Purulia Sadar Hospital. But he did not join at the new place of posting.

3. At the time of argument learned counsel for the petitioner submitted that in the year 1996 the petitioner attained the age of 60 years that is his normal age of superannuation. Presently he is about 89 years of age. In view of the West Bengal Services (Death cum Retirement Benefit) Rules, 1971 after completion of 10 years of service the petitioner is entitled to grant of proportionate pension as he had joined West Bengal Health Service on August 06, 1973 and was in service for a period of more than 10 years till December 31, 1985. Further argument raised was that no disciplinary proceeding was initiated by the Department against the petitioner for absence from duty. Hence, his service could not be forfeited. On a query by the Court as to where the petitioner was serving during the interregnum after 1985 till date, the argument raised was that he had not been working as his wife was not well and he was taking care of her. The Original Application was filed 19 years after the petitioner attained the age of superannuation and about 30 years after the petitioner failed to join at his new place of posting.
4. Considering the aforesaid factual matrix where the petitioner who abandoned his service way back in the year 1985 had approached the Tribunal 30 years thereafter and 17 years after he attained the age of superannuation for grant of certain retiral benefits, in our opinion, the Tribunal has not committed any error in non-suiting him as such a litigant is not entitled to any relief.
5. The present petition is, accordingly, dismissed.

(RAJESH BINDAL)
JUDGE

(ANIRUDDHA ROY)
JUDGE

Kolkata

13/04/2021

PA(SM)