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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 7626 of 2021
(Via Video Conference)**

**Sankar Kumar Mondal
-versus
The State of West Bengal & Ors.**

**Mr. Arunava Pati,
Mr. Sasthi Charan Dhara.
...For the Petitioner.**

**Ms. Kakali Samajpaty.
...For the State.**

The petitioner is a retired primary school teacher. He retired from service on 29th February, 2020 on attaining his normal age of superannuation.

The pension was however, not released in his favour, as there is a shortfall in his qualifying service period.

The petitioner served as a primary school teacher for a period of 9 years 6 months and 12 days. As the petitioner did not serve the qualifying period of 10 years, accordingly, pension was not paid in his favour.

The petitioner relies upon the Memorandum No. 26-SE(B)1/M-13/08 of the School Education Department dated 2nd February, 2009 in support of his claim for pension.

The petitioner also relies upon an unreported judgment dated 23rd December, 2021 passed by a Co-ordinate Bench of this Court in W.P.A. No. 2306 of 2020 (Sajan Kumar Mondal –vs- State of West Bengal & Ors.).

The petitioner made a representation before the respondent authorities on 1st March, 2021 praying for sanction of pension in his favour and alleges that the same has not been considered till date.

It appears that in Sajan Kumar Mondal (supra) the Court took into consideration the judgment passed by the Hon'ble Division Bench of this Court on 28th May, 2021 in MAT 1917 of 2019 (The State of West Bengal – vs- Rabindra Nath Ghosh).

The Hon'ble Division Bench recorded that the Scheme of 1981 contains a provision for condoning deficiency of six months in qualifying service of the employees of non-government /sponsored /aided educational institutions/organisations.

The memorandum dated 2nd February, 2009 mentions that in terms of the DCRB Scheme 1981 fraction of a year equal to six months and above shall be treated as completed six monthly period for the purpose of calculation and a fraction of a year equal to three months and above be treated as completed six months period of service and reckoned as qualifying service for the purpose of pensionary benefit.

In the present case, the shortfall is less than six months. Accordingly, the petitioner will be entitled to benefit of the memorandum dated 2nd February, 2009.

In view of the above, the instant writ petition is disposed of by directing the Commissioner of School Education, Government of West Bengal being the respondent No.2 herein to take a decision with regard to the representation filed by the petitioner praying for condoning the shortfall in his qualifying service period, strictly in accordance with law and in the light of the judgments delivered by this Court in similar matters within a period of twelve weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

If the aforesaid respondent is of the opinion that the petitioner will be entitled to receive pension, then necessary consequential steps shall be taken by the said respondent for sanction of pension in his favour.

The petitioner is directed to forward a copy of his representation dated 1st March, 2021 along with a copy of the e-pension payment order issued in his favour and copy of the judgments delivered by the Court in similar matters to the aforesaid respondent at the time of communicating the order of this Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)