

11.04.2022

Court : 04
Item : PB - 4&5
Matter : MAT
Status : DISMISSED
Transcriber: nandy

MAT 1211 of 2019

(State of West Bengal & Ors. Vs. Sumohan Mondal & Ors.)

With

CAN 1 of 2019

(CAN 11896 of 2019)

with

CAN 2 of 2019

(CAN 11897 of 2019)

&

MAT 382 of 2019

(District Primary School Council & Ors. Vs. Sumohan Mondal & Ors.)

Mr. Arjun Roy Mukherjee, Advocate

Ms. Sucharita Paul, Advocate

.....for the Appellants/State

Mr. Subir Sanyal, Advocate

Mr. Ratul Biswas, Advocate

.....for the Respondent Nos. 7 & 8

Mr. Sk. Rejaul Alam, Advocate

.....for the Respondent Nos. 1 & 6

Both the appeals are taken up together having filed against the common judgment and order.

The aforesaid appeals are at the behest of the State of West Bengal and the District Primary School Council, Howrah respectively challenging the order dated August 31, 2018 passed by the single Bench directing the authorities to give a notional benefit from a retroactive date i.e. October 30, 2003 for the purpose of extending pensionary benefits to the respondents.

The dispute relates to appointment of the Primary Teachers ensued in the year 1986. Slew of litigations started pouring in the docket of this Court at the behest of several aspirants including those who were declared successful and figured in the panel prepared way back in the year 1986. The

matter travelled from one Court to another and ultimately reached Division Bench where large number of cases were taken up together and a direction was passed upon the Assistant Director of School Education on April 4, 2002 to re-examine the list of omission and commission. The same was subsequently done and the aforesaid writ-petitions were disposed of directing the Assistant Direction of School to scrutinize the papers of the persons named therein who have secured more than the cut-off marks i.e. 34 and include their names in the panel for appointment.

The order was assailed before the Supreme Court, which was formally admitted, and later on dismissed meaning thereby there was no interference called for to the judgment of the Division Bench dated August 21, 2002. A contempt application came to be filed at the behest of the respondents herein and ultimately by an order dated May 15, 2012, the same was disposed of and the petitioners were appointed to the said posts. The entire exercise of dispensation of justice took considerable time and ultimately the respondents could get the relief under the threat of contempt.

The aforesaid conduct implies that there was a complete reluctance on the part of the authorities in complying the order despite the fact that the Special Leave Petition filed before the Supreme Court against the order of the Division Bench was

dismissed. Because of the passing of time consumed in the litigation, the petitioners though appointed were found not entitled to any pensionary benefits having not completed the qualifying period of service enshrined in the Rules. This augmented another round of litigation before this Court. The single Bench directed the qualifying period of service to be counted from the date of right to appointment was crystallized by giving a notional benefit therefrom.

The learned Counsel for the State is still adamant in extending such benefits and have taken a rigid and strict view that the respondents could not be paid any pensionary benefit as they could not qualify for the period of the service required for such pensionary benefit.

The delay was attributable to the conduct of the authorities and the appointment could not be secured promptly the moment it was crystallized. The remedies though available were sought to be exhausted unsuccessfully and for such purpose the social justice demands that the person should not lose the benefits when the others have actually received the same with the prompt action of the authorities.

We do not find any infirmity and/or illegality in the impugned order directing the appellant authorities to treat the petitioners as notionally appointed with effect from October 30, 2003 for the purpose of pensionary benefits.

With these observations, the appeals being **MAT 1211 of 2019** and **MAT 382 of 2019** and the connected applications filed in both the appeals are **dismissed**.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)