

20-06-2022
ct no. 13
Sl. 85
sp

WPA 7825 of 2022

Saradindu Jana

-Versus-

State of West Bengal & Ors.

**Ms. Usha Maity,
Ms. Anita Khatri,
Mr. Sakya Maity**

....for the petitioner

**Mr. Supriyo Chattopadhyay,
Mr. Suman Dey**

.....for the State

The petitioner claims pension, having superannuated as Headmaster of Ramchak Rameswar Vidyamandir, Purba Medinipur, on 30.09.2007. The school was granted recognition by the West Bengal Board of Secondary Education on 26.04.2000. The petitioner's appointment was approved on 10.08.2000.

The petitioner was short of 2 years and 7 months for qualifying of service of ten years as on the date of superannuation. The petitioner continued to pursue request of pension, and waiver of the requirement of the said three years and sought pension by communication dated 31.07.2009. The respondent refused to approve pension to the petitioner for falling short of 2 years and 7 months. The petitioner and his school on

his behalf continued to represent for pension, lastly on 15.11.2021.

Counsel for the petitioner Ms. Maity, relies upon a decision of a Co-ordinate bench of this Court in the case of ***Kartick Chandra Das vs. State of West Bengal and Others*** reported in ***(2014) 4 WBLR (Cal) 273***. The said Kartick Chandra Das was the colleague of the writ petitioner in the same school.

By the said order, the Co-ordinate bench directed counting of past service prior to recognition, for the purpose of calculating qualifying service of ten years for pension. Pension was allowed.

The writ petitioner is similarly situated as the said Kartick Chandra Das. The decision of the Co-ordinate bench was affirmed in an appeal filed by the State being FMA No. 677 of 2015 in the judgement and order dated 18.02.2020. Special Leave Petition against the said order has been dismissed.

This Court is inclined to grant similar benefit to the petitioner. What makes this case stand on a different footing, however, is that the petitioner superannuated in 2007 and was refused pension in July 2009. He has approached this Court for the first time in the year 2022 i.e. 13

years belatedly. The order of the Division Bench dated 18.02.2020 (supra) has been affirmed by the Hon'ble Supreme Court and Special Leave Petition being No. 15705 of 2020 was dismissed on 04.02.2021.

Although Ms. Maity, learned counsel for the petitioner claims pension and arrears from the date of retirement, i.e., 30.09.2007, this Court is not inclined to allow the same since the petitioner was sleeping and/or was a fence sitter. The petitioner did not wake up to assert his rights even in the year 2014, when the said Kartick Chandra Das obtained relief.

In those circumstances, this Court is inclined to direct the respondents to release pensionary benefits to the petitioner notionally from 30.09.2007 till 18.02.2020, after the date on which FMA 677 of 2015 was disposed of by the Division Bench of this Court (supra).

All increments in terms of the applicable ROPAs shall be notionally allowed to the petitioner. The amount of actual arrears, however, with increments shall be payable to the petitioner from February 2020 till date, and shall continue thereafter. The arrears from February 2020 till the date of release of pension after issuance of PPO shall be paid to the petitioner, within a period of

two months from date. The arrears themselves as indicated hereinabove, shall carry interest @ 9% per annum.

The PPO shall be issued to the petitioner upon compliance of all formalities, within a period of one month from the date of communication of a copy of this order.

The Director of Pension and Provident Fund, shall take note of the above and comply with the order strictly and expeditiously.

The petitioner shall approach the school and all formalities, forms and other compliance shall be completed by the petitioner immediately.

The Headmaster, Ramchak Rameswar Vidyamandir, on his part, shall act expeditiously in processing the petitioner's pension paper for onward transmission to the D.I. of Schools and the D.I. of Schools, shall expeditiously transmit the papers to the Director of Pension and Provident Fund.

With the aforesaid observations, the writ petition shall stand disposed of.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)