

21.02.2022
Item No.38
Crt. No.11.
KB

WPA 8070 of 2016
Kalyan Prasad Chattopadhyay
-Vs-
The State of West Bengal & Ors.
(Via Video Conference)

Mr. Satya Ranjan Kundu
... For the petitioner.

Mr. Ibrahim Shaikh
... For the State-respondents.

The petitioner was appointed as an Assistant Teacher on 23rd May, 2006. Before the appointment of the petitioner, the petitioner had filed a Writ Petition before this Court being C.O. No.10750 (W) of 1991 wherein the Co-ordinate Bench of this Court directed the D.I.S. (SE) to approve the panel for modification as mentioned in the said order with regard to the mark for extra curricular activities and to approve the panel pending before the said authority. The Co-ordinate Bench had directed the authorities to complete the exercise within a period of three weeks from the date of communication of the order.

Being aggrieved with the order passed by this Court, the Private Respondent had preferred an intra Court appeal, being MAT 2587 of 2000 and the said appeal was dismissed on 06.11.2000.

Being aggrieved with the order passed by the Appellate Court and the Co-ordinate Bench of this Court, the Private Respondent has preferred a Special Leave Petition being Civil Appeal No.7997 of 2002. The Hon'ble Supreme Court has disposed of the said appeal on 10th January, 2006 by directing the District Inspector of Schools (SE), Bankura to appoint the petitioner within a period of three months in any vacant post in the concerned District.

It is further clarified by the Hon'ble Court that if there is no vacancy in the said District, the Government may ensure that he gets an appointment in a nearby District.

After the order is passed by the Hon'ble Supreme Court, the school authorities appointed the petitioner as Assistant Teacher on 23rd May, 2006. The petitioner has accepted the said appointment without any protest.

After the period of eight years of appointment, the petitioner has made a representation to the Commissioner of Education on 23.11.2015 praying for grant of notional benefit from the year 1991. The representation submitted by the petitioner was not considered and is pending before the authority and accordingly the petitioner has filed the instant writ

application. During the pendency of the writ application, the petitioner retired from service on 30th April, 2019.

The counsel for the petitioner submitted that as the petitioner has only completed thirteen years of service and as such the petitioner will not be entitled for pensionary benefit and prayed for a direction upon the authorities to consider the request of the petitioner for appointment of the petitioner since the year 1991 on notional basis, so that the petitioner can get the pensionary benefit.

The petitioner prays for a direction for consideration of the representation of the petitioner on 23.11.2015.

Counsel for the respondent has submitted that the petitioner had accepted the appointment as Assistant Teacher in the year 2006 and was kept silent till the year 2015 and only after the period of eight years the petitioner has submitted representation praying for notional benefit. But in the meantime, the petitioner has retired and as such no order can be passed.

Considered the rival submissions of the parties and the documents available on record.

Admittedly the petitioner was appointed in the year 2006 and the petitioner has accepted the appointment without any agitation.

The petitioner was continued in the service till his retirement.

In the year 2015, the petitioner made an application for grant of notional benefit, but the same was not considered and in the meantime, the petitioner retired from service..

In the facts and circumstances of this case, this Court is of the view that no order can be passed except with liberty to the petitioner to make a comprehensive representation to the respondent authorities and if any representation is filed by the petitioner, the same may be considered by the respondent authorities within a period of six weeks from the date of receipt of the representation.

WPA 8070 of 2016 is thus disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Krishna Rao, J.)