

05.08.2022.
Item No.35
Court No.21
Saswata

**W.P.A. 19014 of 2017
CAN 1 OF 2022
CAN 2 OF 2022**

**Dr. Kausiki Charkrabarti
Versus
State of West Bengal & Ors.**

Mr. Kamlesh Jha
... ...For the petitioner

Dr. Barindranaryan Roy
Mr. Parikshit Goswami
... ... For the State

Mr. Pulak Ranjan Mondal
Mrs. Bandana Mondal
Mr. Subhrangsu Panda
... ... For the WBCSC

In re : CAN 2 OF 2022

This is an application for condonation of delay in filing the restoration application.

Having regard to the averments made in the application, I am of the view that a delay of about 218 days has been sufficiently explained.

Accordingly, the application for condonation of delay being CAN 2 OF 2022 stands allowed.

In re : CAN 1 OF 2022

This is an application for restoration.

Having regard to the averments made in the application, I am of the view that the petitioner has sufficiently explained the reason

for non-appearance of her learned advocate on September 29, 2021, before this Court.

Accordingly, the application for restoration being CAN1 OF 2022 stands allowed.

In re : WPA 19014 OF 2017

The writ petitioner is an aspirant for the post of Assistant Professor in Zoology. She appeared in the selection procedure conducted by the West Bengal College Service Commission in the year 2009. At the relevant point of time, the petitioner was a PhD degree holder, but the College Service Commission omitted to award marks for her PhD degree. The petitioner had approached this Court and before this Court it was admitted by the College Service Commission that the petitioner was not awarded the marks for her PhD degree mistakenly.

The writ petition was disposed of by an order dated June 15, 2012, with the following observations:

“Mr. Mondal, learned advocate, appearing for the respondents no. 3 and 4, submitted on instruction that the College Service Commission made a mistake in computing the marks obtained by the writ petitioner. He further submitted on instruction that the College Service

Commission has intended to rectify the mistake.

Considering the submission made by Mr. Mondal, this writ petition is disposed of by directing the respondent nos. 3 and 4 to correct the mistake and to take all consequential appropriate steps in accordance with law.

This writ petition is, thus, disposed of.

Urgent xerox certified copy of this order, if applied for, be supplied to the learned advocate appearing for the parties subject to compliance with the requisite formalities.”

Pursuant to the said order dated June 15, 2012, the petitioner joined as an Assistant Professor of Zoology of Charu Chandra College, Kolkata.

It is the grievance of the petitioner that though she has been allowed to join her post following the order of this Court, the State has not given her other consequential benefits.

It has been submitted by Mr. Kamlesh Jha, learned advocate for the petitioner that the petitioner ought to have been recommended by the College Service Commission and consequentially, she should have been appointed in the year 2010 as an Assistant

Professor, but due to the negligence of the College Service Commission, her appointment got delayed.

It appears from page 34 of the writ petition that the Higher Education Department by an order dated February 20, 2015, declined to allow the claim of the petitioner for notional benefits for the period for which the petitioner had not rendered actual service

I am of the view that the order issued by the Higher Education Department cannot be sustained. The petitioner was not at fault. The fault was on the part of the West Bengal College Service Commission. Had the PhD degree of the petitioner been considered by the West Bengal College Service Commission in the year, 2009, she could have joined in the year 2010 as an Assistant Professor. The petitioner cannot suffer for the wrong on the part of the respondents. Such wrong should be remedied, at least, partially, if not completely.

It is submitted Mr. Mondal that the candidates, who were selected in the 2009 recruitment, had been given an appointment at the end of 2010.

In that view of the matter, this writ petition is disposed of with a direction upon the

respondents to treat the petitioner in service on and from January 1, 2011, as an Assistant Professor and re-fix her salary accordingly. Her seniority in service also be counted from that date. The entire exercise shall be completed by the respondents within one month from the date of communication of this order. The petitioner, however, shall not be given any arrear on account of such re-fixation of her salary.

The order dated February 20, 2015, passed by the Higher Education Department, West Bengal, is accordingly set aside.

With the aforesaid directions, the WPA 19014 of 2017 is disposed of.

Urgent photostat certified copy of this order if applied for be given to the parties upon compliance with requisite formalities.

(Kausik Chanda, J.)