

Item No. 48
08.09.2022
Ct. No. 25
S.A.

WPA 16058 of 2012

Abdul Zabbar & Ors.
-vs.-
The State of West Bengal & Ors.

Mr. Pinaki Ranjan Chakraborty
...for the petitioners
Mr. Shamimul Bari
...for Malda District Primary Council

The petitioners have filed this writ petition praying for a mandamus to command the respondents to grant all arrear emoluments and other service benefits with effect from 5th March, 2010 and also to bring them under the purview of the pension scheme.

The petitioners claim to have participated in the selection process for appointment of Primary Teachers under the District Primary School Council, Malda. The petitioners filed several writ petitions from time to time. Since they were not allowed to appear in the interview, the petitioners had to approach this court with a prayer for allowing them to participate in the interview. The petitioners claim that pursuant to an order passed by a Coordinate Bench of this court on April 11, 2008 in WP 7854 (W) of 2008, the petitioners were permitted to appear at the said

interview. The petitioners were successful in the said interview but the School Authorities did not issue appointment letters in favour of the writ petitioners. The writ petitioners thereafter filed another writ petition being WP 8947 (W) of 2010 and a Coordinate Bench of this court by an order dated November 29, 2010 directed the Director of School Education, West Bengal to take appropriate steps in the matter and grant approval in favour of the petitioners in the event they conform to and fulfil all statutory requirements necessary for the purpose of securing their appointments. The petitioners claim that pursuant to the direction passed in WP 8947 (W) of 2010 the petitioners were ultimately appointed on September 8, 2011 and their appointments have been duly approved.

The grievance of the petitioners is that they had retired on different dates starting from the year 2012 till 2015. The grievance of the petitioners is that the petitioners are being deprived from the pensionary benefits as they could not complete the ten years qualifying service for being entitled to such pensionary benefits.

Learned advocate appearing for the petitioners submits that they belong to the exempted category and only because of the inaction on the part of the

employment exchange in not sponsoring their name, the petitioners had to file several petitions for which a considerable time had been consumed. Learned advocate contends that the period from 2006 till the date of appointment is to be taken into consideration notionally for the purpose of extending the pensionary benefits to them.

Mr. Bari, learned advocate for the District Primary Council submits that the service of the petitioners were approved only on September 8, 2011 and the period prior to such date cannot be taken into consideration for the purpose of extending the pensionary benefits and they did not render service for the minimum qualifying period so as to be entitled to pensionary benefits.

Heard the learned advocates for the parties and perused the materials placed.

The petitioners' claim for appointment accrued pursuant to the participation in the interview which was held on 27th December, 2009. The petitioners were appointed on September 8, 2011. The period of qualifying service for pensionary benefits has to be calculated from the date of joining of the petitioners in service. Any period prior thereto cannot be taken into consideration for the purpose of calculating the period of qualifying service as the petitioners did not render

any service for any period prior to the date of appointment. This court is, therefore, unable to accept the submission of the learned advocate for the petitioners that the period from 2006 till the date of appointment is to be taken into consideration notionally for the purpose of computing minimum qualifying service.

For the reasons as aforesaid this court is of the view that this matter is devoid of any merit and the same is liable to be dismissed and is accordingly dismissed.

There shall be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)