

Court No. 24
14.02.2022
(Item No. 49)
(AB)

W.P.A. 21077 of 2021
(via video conference)

Radha Gobinda Kundu
VS
The State of West Bengal & Ors.

Mr. S. S. Arefin

..... for the petitioner

Mr. Bhaskar Prasad Vaisya

Mr. Jaydip Banerjee

..... for the State

Mr. Suman De

..... for D.P.S.C. Bankura

The petitioner claims to be an Organizing Teacher of a Primary School. He joined service in the school prior to 1980. As the service of the Organizing Teachers was not regularized, the petitioner along with others moved a writ petition before this Court.

The matter went up before the Hon'ble Supreme Court. By an order dated 2nd February, 2011 passed in SLP (Civil) No(s). 15253 of 2006, in the matter of W.B.O. Primary Teachers' Association and Ors. Vs. Chairman, Ad-hoc Committee, North & Ors. the Hon'ble Supreme Court directed that in case of the 1257 members of the West Bengal Organizer Primary Teachers' Association and in case of all those persons who were parties before the High Court in W.P. No. 15632 (W) of 1998, the upper age limit shall be reckoned with reference to September 14, 1995.

The Hon'ble Supreme Court clarified that in case the 1257 members of the petitioner Association and those persons who were parties before the High Court in the aforementioned writ petition satisfy the age criterion as on September 14, 1995, their applications shall be duly

considered in terms of the other eligibility criteria prescribed under the Rules as they stand on date.

If any applicant claims relaxation of age on the basis of this order, it will be open to the concerned authorities to satisfy themselves as to whether the concerned applicant was a party before the High Court in the aforementioned writ petition.

The petitioner claims that he was a party in the aforementioned writ petition filed before the Hon'ble High Court at Calcutta in the year 1995. The date of birth of the petitioner being 25th October, 1960 he was eligible for appointment in accordance with the relevant Rule in the year 1995.

The petitioner claims that the appointment letter was however issued in favour of the petitioner on 5th October, 2016 and he has attained his normal age of superannuation during the pendency of the writ petition.

The petitioner prays that the period during which he was in service and his litigation was pending before this Court, may be taken into consideration for giving notional benefit to him. Due to the delay in issuing the appointment letter in his favour, the petitioner failed to attain the minimum qualifying service period for getting his pension.

The petitioner claims that he applied before the Director of Pension, Provident Fund and Group Insurance in October, 2020 with a prayer for relaxing the qualifying service period of ten years, however, there is no proof of service of the representation of the petitioner upon the

Director, Directorate of Pension, Provident Fund and Group Insurance.

The petitioner, in his support, relies upon an order passed by the Hon'ble Division Bench of this Court on 18th February, 2020 in F.M.A. 677 of 2015 (The State of West Bengal & Ors. Vs. Kartick Chandra Das & Ors.). In the said appeal the Hon'ble Division Bench took into consideration an order passed in a similar matter in Haradhan Mahato V. The State of West Bengal & Ors. reported in 2013(3) CLJ (Cal) 520.

In Haradhan Mahato (supra) the Hon'ble Division Bench was of the opinion that the delay in issuing the formal office order regularizing the service of the petitioner cannot deprive the petitioner from enjoying the benefit of usual pension and other retiral benefits on the ground that the said employee did not complete ten years of service period. The Court was pleased to direct the respondent authorities to grant pension to the petitioner.

In the present case, the petitioner claims to have been serving in the school prior to 1980, but the letter of appointment was issued in his favour in the year 2015.

In view of the above, the instant writ petition is disposed of by granting liberty to the petitioner to make a comprehensive representation before the Director, Directorate of Pension, Provident Fund and Group Insurance and a proper application before the Secretary, Department of Education within ten days from date along with all documents in support of his claim. The said

authority shall verify the said documents and if it transpires that the petitioner was in service for more than ten years, then necessary direction shall be passed by the said authority by approving notional benefit for the said period so that the petitioner may enjoy his pension and other retiral benefits. Steps shall be taken in the matter at the earliest, but positively within a period of ten weeks from the date of communication a copy of this order.

The said respondents shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)