

21.11.2022
Sl. No.7(DL)
srm

W.P.A. No. 23598 of 2022

Susanta Kumar Roy

Versus

The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya,
Mr. Surendra Kumar Sharma
....for the Petitioner.

Mr. Pinaki Dhole,
Ms. Ananya Neogi
...for the State-respondents.

Affidavit-of-service is taken on record.

The petitioner prays for pension and other retirement benefits upon condonation of the shortfall in service. He prays that the authorities deliberately refused to grant the appointment at the time when the petitioner had been selected and hence he was not at fault. Had the appointment been made upon conclusion of the recruitment process, the petitioner would have worked for more than 15 years.

It is the contention of the petitioner that the selection process was completed in 1986, but the authority failed to implement the said selection process.

Thereafter, several litigations continued before this Court at the instance of other selected candidates. Finally,

the authorities were directed by a Division Bench to take steps for appointment of the empanelled candidates. The petitioner was one of such empanelled candidate.

Reliance has been placed on the Division Bench judgment of this Court dated January 17, 2007.

Aggrieved, the State of West Bengal preferred a Special Leave Petition before the Hon'ble Supreme Court, which was dismissed.

The appointment letters were issued. The petitioner's appointment letter is dated September 26, 2008. The petitioner joined the post on January 21, 2009, after having executed an agreement and upon being satisfied with the terms and conditions thereof.

It also appears that the Division Bench had specifically observed that it would not be proper for the Court to fix the cut off date from August 13, 1998. It was observed that interest of justice would be sub-served if the persons who could not be appointed due to the delay by the State-respondents, were granted liberty to pray for appropriate compensation by approaching the civil court.

The Division Bench had directed the State to consider the case of all the empanelled candidates by applying the date of judgment, that is January 17, 2007 as a cut off date instead of any prior date. The State was also

directed to grant the appointments as early as possible especially in cases of those persons who had 5 years or less of service life.

Mr. Bhattacharya, learned Advocate appearing on behalf of the petitioner submits that order of the Division Bench will not affect the rights of the petitioner.

The specific contention of the State-respondents before the Division Bench was that there were many candidates who would not complete even 5 years of service and they would not be entitled any post retirement benefits.

Analysing the entire issue, the Division Bench decided that the cut off date for the appointment arising out of the selection process of 1986 initiated by the State of West Bengal to fill up the post of 'Gram Shevak' would be January 17, 2007. The cases of those candidates, who had 5 years or less tenure, should be given priority.

It appears that agreements were also executed by the said candidates when they joined their duties. The order was in respect of all empanelled candidates.

Thus, Mr. Dhole, learned Advocate appearing on behalf of the State-respondents submits that the question of condonation of shortfall of more than four years for eligibility to be granted pension, cannot be allowed in view

of the order of the Division Bench and the agreement signed by the petitioner.

The writ petition is disposed of with a direction upon the Joint Secretary to the Government of West Bengal, Department of Panchayats and Rural Development, to treat the writ petition as a representation of the petitioner and decide the question of condonation of the shortfall in his pensionable service, under the facts and circumstances narrated hereinabove. The petitioner will be entitled to be represented by a learned Advocate before the authority.

Upon completion of the hearing, a reasoned order shall be passed and communicated within a period of eight weeks from the date of communication of this orders.

A copy of this writ petition along with a server copy of this order be served upon the authority.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)