

Court No. 24
17.02.2022
(Item No. 10)
(AB)

W.P.A. 25877 of 2018
(via video conference)

Md. Abdur Rasid
VS
The State of West Bengal & Ors.

Mr. Goutam Dey
Mr. Rajesh Naskar
Mr. Dipendu Sarkar
Mr. K. Kumar

..... for the petitioner

Mr. Bhaskar Prasad Vaisya
Mr. Sagnik Chatterjee

..... for the State

The petitioner is a retired Primary School Teacher. He retired from service on attaining his normal age of superannuation on 30th September, 2009 after completing 16 years 7 months and 16 days in service. The date of issuance of the letter of appointment of the petitioner is mentioned as 28th January, 1993.

According to the petitioner, his initial date of appointment is 10th May, 1983. In support of his stand, the petitioner relies upon the Office Memorandum of the 24-Parganas District School Board dated 26th April, 1983 annexed at page 15 of the writ petition.

From the said letter of appointment, it appears that the same was issued in the name of one 'Abdul Rasid' son of 'late Mamtaj Mondal'. The petitioner asserts that his name is Md. Abdur Rasid son of late Punjab Ali.

The petitioner submits that he filed a writ petition earlier before this Court praying for rectification of his name in the office records. In compliance of the order passed in

the writ petition the respondent issued appointment letter in favour of the petitioner.

The petitioner filed a separate writ petition praying for giving retrospective effect to the letter of appointment. The said writ petition being W.P. 7541 (W) of 1995 was disposed of by this Court on 12th September, 1997 by directing the Chairman, District Primary School Council, North 24-Parganas to treat the writ petition as a representation of the petitioner for giving retrospective effect to the letter of appointment in accordance with law and consider and dispose of the same by passing a reasoned order.

The matter was considered and disposed of by the Chairman of the District Primary School Council, North 24-Parganas and the reasoned order was communicated to the petitioner by letter bearing No. 96/Law dated 30th April, 1998 annexed at page 18 of the exception to the report filed by the petitioner.

From the said order passed by the Chairman of the Council it is not clear whether the Council accepted the prayer of the petitioner for giving retrospective effect to his date of initial joining in service with effect from 13th May, 1996.

At page 14 of the exception, the petitioner has annexed the Officer Order dated 28th January, 1993 wherein it is mentioned that the President of the District School Board, North 24-Parganas appointed the petitioner as the Assistant Teacher on purely temporary basis with immediate effect. The petitioner was directed to submit his

joining report to the local Sub-Inspector of Schools personally by 15th February, 1993.

The respondent Assistant Inspector of Schools (P.E.) has filed a report wherein it has been clearly mentioned that the initial date of appointment of the petitioner is 13th February, 1993. The petitioner received all his retirement benefits after his retirement on 30th September, 2009 and the Pension Payment Order was issued in his favour on 27th October, 2009 and the petitioner is receiving his pension on regular basis.

Learned advocate for the State submits that the service rendered by the petitioner as claimed from 1983 till his initial date of joining in February, 1993 was never approved by the Board at any point of time.

As late as in 2018 it dawned upon the petitioner, that the period of his qualifying service has been wrongly mentioned in the Pension Payment Order as 16 years 7 months and 16 days instead of 26 years approximately.

Upon hearing the submissions of the parties and upon perusal of the records it appears that the petitioner readily accepted his letter of appointment in the year 1993 without raising any objection. The prayer of the petitioner for giving retrospective effect to his date of joining on and from 13th May, 1983 remained inconclusive after the order was passed by the District Primary School Council in April 1998. The petitioner thereafter served for his entire tenure without raising any objection or without any further prayer for correction of his initial date of joining. After nearly nine

years of his retirement and after accepting all his retiral benefits the petitioner has approached this Court, praying for grant of notional benefit for the period 1983 to 1993.

The petitioner has not given any explanation as to why he approached this Court at such a delayed point of time. It appears that the petitioner knowingly waived his right to receive his benefits, if any, from the year 1983 onwards and he accepted the benefits from the year 1993 onwards. The petitioner practically admitted his initial date of joining as 13th February, 1993.

The prayer made by the petitioner for granting notional benefit cannot be accepted by the Court both on the ground of delay as well as on merit.

The writ petition fails and is hereby dismissed.

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

(Amrita Sinha, J.)