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ORDER SHEET
WPO/1551/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

NITISH KUMAR CHAKRABORTY
Vs
STATE OF WEST BENGAL AND ANR.

BEFORE:

The Hon'ble JUSTICE KAUSIK CHANDA

Date : 07TH JULY, 2022.

Appearance:
Mr. Sanjib Dawn, Adv.
Mr. Ranabir Banerjee, Adv.
For the petitioner

Mr. Nilotpal Chatterjee, Adv.
Mr. Raja Saha , Adv.
Mr. Satyaki Banerjee , Adv.
..for Calcutta University

The Court : The petitioner claims his retiral dues including pension. It is the case of the petitioner that he was engaged as an “Assistant” on casual basis in the University of Calcutta.

He served for about 23 years as “Day worker” and “Diploma Writer” simultaneously in the office of the Controller’s of the University. Thereafter, he was made permanent in the post of Junior Assistant in the year 2002. After serving about eight years, he retired from service on November 30, 2010. He was not accorded any pension and other retiral dues on the ground that he had not served the qualifying service of ten years.

The Vice-Chancellor of the University through the Registrar by a letter dated July 8, 2011, requested the Principal Secretary, Department of Higher Education, West Bengal seeking his intervention and advice in releasing the retired dues of the petitioner. The Department of Higher Education

thereafter by a letter dated September 21, 2011, sought certain qualifications from the University. On March 15, 2012, the University provided the required information to the said department. Thereafter, despite series of representations made by the petitioner, no step has been taken by the State. Such inaction prompted the petitioner to approach this Court seeking a direction for release of his retiral dues.

Learned Advocate appearing for the petitioner submits that petitioner has a qualifying service for the purpose of releasing pension in terms of Rule 22 of the West Bengal (Death-cum-Retirement Benefit) Rules, 1971.

The said rule is quoted below :

R. 22. (1) Any temporary or officiating service under Government followed without interruption by confirmation or by declaration as quasi-permanent or permanent in status in the same or another post shall however count in full as qualifying service except that –

(a) the period of temporary or officiating service in an establishment wherein contributory provident fund benefits are allowed shall not count unless the Government contribution including interest is refunded in full to Government;

(b) the period of service paid from contingencies shall not count.

(2) Past service whether permanent or temporary rendered by a Government servant of the undivided Province of Bengal who at the time of partition opted finally for service in Pakistan but returned to West Bengal and was absorbed in the State Government not later than

31st December, 1951 and subsequently made permanent, will count towards pension provided the service was otherwise qualifying. The period of service rendered under the Government of East Pakistan after partition and the period during which no duty was performed will neither count towards pension nor constitute a break for determining the total length of service.

Placing upon reliance on the said rules, it has been submitted that the period for which the petitioner served temporarily in the University should have been counted for calculating the qualifying service of the petitioner.

Since the issue of granting pension to the petitioner is pending before the Principal Secretary, Higher Education Department, West Bengal, at this juncture I am not inclined to decide this petition on merit.

Accordingly, this petition is disposed of giving a direction upon the Principal Secretary, Higher Education Department, West Bengal, to take a decision with regard to the release of retiral dues including pension of the petitioner within a period of one month from date. The Principal Secretary, Higher Education will be at liberty to hear the petitioner and the representative of the University if he so desires in arriving at his decision. The decision so taken shall be communicated to the petitioner within one week thereafter.

WPO No.1551 of 2021 is disposed of.

(KAUSIK CHANDA, J.)