

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

WP.ST 1 of 2022

***Tapas Kumar Chakraborty
Vs.
The State of West Bengal & Ors.***

*For the Petitioner : Mr. Asit Baran Mukherjee,
Mr. Tarapada Das, Advocates*

*For the State : Mr. K. M. Hossain,
Mr. Tapas Kr. Mondal, advocates*

*For the AG Bengal : Mr. Sandip Kr. Bhattacharyya,
Mr. Suman Basu, Advocates*

Heard & Judgment on : July 14, 2023

DEBANGSU BASAK, J.

1. The writ petition is directed against an order dated January 21, 2020 passed in OA 78 of 2019.
2. By the impugned order, the claim of the writ petitioner for adding the period of service rendered as Tahashil Mohurrir for the purpose of considering the retiral benefits of the writ petitioner was rejected.

3. Learned advocate appearing for the writ petitioner submits that, the writ petitioner was initially engaged as a Tahashil Mohurrir. The petitioner rendered services as a Government servant for a considerable period of time. Consequently, such period of time should be taken into consideration for calculating the entire period of service that the writ petitioner rendered as a Government servant. Petitioner was subsequently engaged as a Group-D employee.

4. Learned advocate for the writ petitioner draws the attention of the Court to the comparative chart showing the differences between the Tahashil and Tahashil Mohurrir as annexed to the affidavit-in-opposition. He also relies upon a notification dated April 27, 1995 which is annexed to the affidavit-in-reply.

5. The writ petitioner before us was initially engaged as a Tahashil Mohurrir for the period 1971–1984. Tahashil Mohurrir is a seasonal nature of work. Tahashil Mohurrirs were and are considered to be seasonal workers.

6. Long after his cessation of work as a Tahashil Mohurrir, petitioner approached the Tribunal by O.A.210 of 2003 which was disposed of by an order dated February 20, 2006 requiring disposal of the representation for grant of employment. Pursuant thereto the Director, Land Records and Surveys passed an order dated August 16, 2006 recommending the appointment of the petitioner in Group 'D' post.

7. The writ petitioner was subsequently engaged as a Group-D employee on June 22, 2007 subject to the condition that his past service shall not be taken into consideration under any circumstances. The writ petitioner superannuated on March 31, 2016 rendering a total period of 8 years, 9 months and 4 days service as a Group-D employee.

8. Petitioner seeks adding the period of service that the petitioner rendered as a Tahashil Mohurrir, to his period of service as Group D employee for the purpose of calculating pensionary benefits receivable by him.

9. Learned advocate appearing for the writ petitioner relies upon a judgment dated September 30, 2011 passed in **Special Leave to Appeal [(Civil) No. (s) 20041 of 2008] [Union of India & Ors. Vs. Sarju]** in support of the contention that the petitioner is entitled to the past service.

10. In **Sarju (supra)** employees who were initially casual and temporary but regularised subsequently were granted the benefit of their period of service rendered as a casual worker to be taken into consideration as qualifying service for the purpose calculating the retiral benefits. Facts of this case are different. Petitioner was neither a casual nor a temporary employee. As a Group-D employee, the petitioner did not attain the qualifying period of service to receive the pensionary benefits.

11. The petitioner worked as Tahashil Mohurrir, which is a work seasonal in nature and the period of service rendered as such, cannot be considered for the purpose of calculating pensionary benefits or for the purpose of considering qualifying service of the period to receive pensionary benefits. His appointment on June 22, 2007 was on the condition that his past service cannot be taken into consideration under any circumstances. Consequently adding past service period for pensionary benefits would be contrary to his terms of employment, also.

12. The memorandum dated April 27, 1995 of the State Government relates to Tahashilders and not to Tahashil Mohurrir.

13. In such circumstances, we find no merit in the present writ petition.

14. WP.ST 1 of 2022 is accordingly **dismissed** without any order as to costs.

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

(Debangsu Basak, J.)

16. I agree

(Md. Shabbar Rashidi, J.)

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