

75-78 27.03.
2023
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WP.ST 33 of 2023

Subhas Chandra Jana

Vs.

The State of West Bengal and others.

With

WP.ST 34 of 2023

Tapas Chakraborty

Vs.

The State of West Bengal and others.

With

WP.ST 35 of 2023

Kanai Lal Maity

Vs.

The State of West Bengal and others.

With

WP.ST 36 of 2023

Manmatha Nath Kar

Vs.

The State of West Bengal and others.

Mr. Timir Baran Saha,

MR. Aninda Bhattacharya.

... for the petitioner in all matters.

Mr. Tapan Kumar Mukherjee, Ld. AGP,

Ms. Chaitali Bhattacharya,

Mr. Kartik Chandra Kapas,

Ms. Debdooti Dutta,

Mr. Dipankar Dasgupta.

... for the State in all matters.

The aforesaid writ petitions are taken up together since common questions of law are involved therein and are being disposed of by passing a common order.

The Tribunal dismissed the application holding that the moment the petitioner is found not to have fulfilled the qualifying service for entitlement to pension, he is not entitled to any relief in the said application.

It appears in course of argument that there is a shortfall of nearly 4 or 5 years and, therefore, the authorities have decided not to disburse the pension to the petitioner.

The West Bengal Service (Death cum Retirement Benefit) Rules, 1971 contained an exhaustive provision relating to the benefits attributable to the Government service including the pension and pensionary benefits. The said Rule provides that the qualifying service would mean that the petitioner has rendered 10 years of continuous service from the date of employment. An exception has also been carved out bestowing power upon the Government to condone the deficiency in relation to qualifying service but with the outer cap of 6 months.

What can be seen therefrom that the Government can condone the deficiency in qualifying service provided the deficiency is within 6 months of the qualifying service. The authority cannot travel beyond the precincts of law. Any administrative action of the authority de hors the power conferred therein cannot be regarded as a valid and/or legal decision.

The moment the outer cap had been fixed in the statutory provisions, the authority cannot ipso facto assume the jurisdiction and condone the delay beyond the same.

In view of the above, the undisputed facts emerged from the record, we do not find any infirmity and/or illegality in the impugned order.

The writ petitions are dismissed.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

