

Item-16. 24-07-2023

sg Ct. 8

MAT 433 of 2020  
CAN 1 of 2020 (old CAN 2933 of 2020)

Nirmal Kumar Bera  
Versus  
The State of West Bengal & Ors.

Mr. Narayan Chandra Bhandary, Adv.  
...for the appellant  
Mr. Subir Sanyal, Adv.  
Mr. Ratul Biswas, Adv.  
...for Howrah Council  
Mr. Supriyo Chattopadhyay, Ld. AGP  
Ms. Iti Dutta, Adv.  
...for the State

The appeal is arising out of an order dated 10<sup>th</sup> February, 2020. It appears that the appellant was appointed on temporary basis on 3<sup>rd</sup> May, 2005. The appointment letter dated 2<sup>nd</sup> June, 2005 has clearly stated that the said appointment letter shall take effect from the date on which the appellant/applicant actually join the post. The appellant was aware of the fact that he was appointed as an Assistant Teacher on temporary basis. He knew that if 2<sup>nd</sup> June, 2005 is taken to be his date of joining then qualifying period for pension would fall short by three years. This letter was never challenged earlier.

At the fag end of his career, the appellant filed the present writ petition. It appears from the orders passed in the earlier proceeding namely, the order passed by Justice Patherya on 4<sup>th</sup> January, 2012, the appellant was unable to establish that he had secured marks more than the cut-off marks.

The Hon'ble Division Bench presided over by Justice Girish Chandra Gupta has also recorded the fact that there was no dependable evidence before the Hon'ble Division Bench to

show that the writ petitioner/applicant secured more than 34 marks or that he was entitled to be appointed. It was thus observed that submission that the appellant should have been appointed in the year 1997 is, therefore, without any merit. The order of the coordinate Bench presided over by Justice Gupta had attained its finality in the meantime.

Under such circumstances, we do not find any merit in this appeal.

The appeal and the connected application stand dismissed. However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**