

**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 100 of 2023

Subhra Sadhu & Ors.

Vs.

State of West Bengal & Ors.

For the petitioners

: Mr. Dinendra Nath Chatterjee

Mr. Ramkrishna Biswas

For the State

: Mr. Somnath Ganguli, Ld. AGP

Mr. Rajaram Banerjee

Heard on : July 07, 2023

Judgment on : July 07, 2023

DEBANGSU BASAK, J.:-

1. An order dated December 23, 2019 passed by the West Bengal Administrative Tribunal in OA 45 of 2018 is under challenge in the present writ petition.
2. Writ petitioners claim pension. Such claims for pension were turned down by the Tribunal by the impugned order.
3. The writ petitioner no.1 rendered service in Group-D post for a period of 6 years 7 months and 17 days. The writ petitioner no.2 rendered service in Group-D post for 6 years

5 months and 16 days. The writ petitioner no.3 rendered service in Group-D post for 4 years 11 months and 15 days. The writ petitioner no.4 rendered service in Group-D post for 7 years 1 month and 5 days.

4. Considering the period of service rendered so far as the writ petitioners are concerned, none of the petitioners qualified for pension for a Group-D post under the relevant rules.
5. Learned Advocate appearing for the writ petitioners relies upon an order dated February 16, 2015 passed in *WPST 81 of 2014 (Sk. Golam Zikria vs. State of West Bengal & Ors.)* and submits that, qualifying service in terms of the Death-cum-Retirement Benefits Rules, 1971 was condoned. The Special Leave Petition directed against such judgment and order was dismissed by the Supreme Court on July 17, 2017.
6. In *Sk. Golam Zikria (supra)*, the Division Bench observed that the Government should exercise power under Rule 36 as well as Rule 4 of the Death-cum-Retirement Benefits Rules, 1971 to condone a deficiency of 4 months and 7 days in the qualifying service of the writ petitioner therein for the purpose of granting regular pension.

7. Rule 36 and Rule 4 of the Rules of 1971 empowers the Government to condone the deficiency of 6 months of qualifying service.
8. In the facts of the present case, even if 6 months of service is added so far as all the writ petitioners are concerned, individually, then also, none of them will attain the qualifying service prescribed under the Rules of 1971.
9. Other contentions were raised by the writ petitioners before the Tribunal which were considered by the Tribunal and negated.
10. In such circumstances, we find no ground to interfere with the impugned order of the Tribunal.
11. **WP.ST 100 of 2023** is dismissed without any order as to costs.

(Debangsu Basak,J.)

12. I Agree.

(Md. Shabbar Rashidi, J.)