

DL-4

29.08.2023
Court No.5
(AD)

WP.ST 204 of 2013
With
IA No.: CAN 2 of 2023

Kanailal Patra & Ors.
Vs.
The Principal Secretary, Civil Defence Department,
Government of West Bengal & Ors.

Mr. Chittapriya Ghosh
Mr. Kuntal Ray
Ms. Priyanka Saha

... for the petitioners.

Mr. Tapan Kumar Mukherjee,
Ld. Sr. Advocate & Ld. AGP
Mr. Somnath Naskar

... for the State respondents.

*In Re.: **IA No.: CAN 2 of 2023***

CAN 2 of 2023 is an application for restoration.

For the ends of justice and on the basis of the pleadings made in the application for restoration, the order of dismissal dated August 22, 2023 is recalled.

WP.ST 204 of 2013 is restored to its original file and number.

IA No.: CAN 2 of 2023 is disposed of.

*In Re.: **WP.ST 204 of 2013***

The writ petition is directed against an order dated August 13, 2012 passed in OA-502 of 2010 and OA-503 of 2010 by the West Bengal Administrative Tribunal.

The writ petitioners approached the Tribunal for grant of notional benefits from the date of the order of the High Court being August 6, 1986.

State is represented.

The writ petitioners sought regularization of their employment. The High Court passed an order dated August 6, 1986 directing absorptions without fixing any time limit. This order of the High Court was assailed by the State in a Special Leave Petition. The Hon'ble Supreme Court passed an order dated July 7, 2003 directing the State Government to carry out the order passed by the High Court and clear all the consequential monetary benefits to the writ petitioners within a period of three months from the date of the order.

A contempt petition was filed before the Hon'ble Supreme Court. In such contempt petition an order dated October 11, 2004 was passed. Thereafter the State Government regularized the services of the writ petitioners on December 3, 2004.

The petitioners seek that since they do not possess the qualifying service to receive the pensionary benefits, the date of their regularization should be considered from August 6, 1986 being the date of the order of the High Court.

Learned Senior Advocate appearing for the State submits that, the order dated August 6, 1986 was assailed before the Supreme Court when the Supreme Court passed the order dated July 7 2003. The right of the parties stood crystallized on July 7, 2003. Therefore, the date of reckoning of the absorption of the writ petitioners should be

considered at best from such date.

There is substance in the contentions made on behalf of the State. The rights of the parties *inter se* stood crystallized on July 7, 2003 so far as absorptions is concerned.

In such circumstances, the State will grant notional benefits to the writ petitioners from July 7, 2003.

The Court is informed that the writ petitioners superannuated in the meantime. The Retiral benefits, if any, to the writ petitioners be calculated on the basis of notional benefits being granted to the writ petitioners from July 7, 2003.

WP.ST 204 of 2013 is disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

