

13 15.09.2023
rkd Ct.15

W.P.A. 20703 of 2017

Sri Sufal Chandra Hait

-vs-

The State of West Bengal & Ors.

Md. Sarwar Jahan,
Mr. S. N. Thander,
Ms. Mousumi Mitra

....for the petitioner.

Mr. Sirsanya Bandopadhyay,
Mr. Arka Kumar Nag,
Ms. Tapati Samanta

....for the State.

By filing the present writ petition, *inter alia*, petitioner has prayed for service benefits from the month of July, 2002 instead of 13th April, 2005 in view of the fact that petitioner was appointed as the Secretary of Polgustia Gram Panchayat under Jagatballavpur Block, District- Howrah pursuant to the order dated 15th May, 2002 passed by the coordinate Bench on a writ petition being WPA 20270 of 1999. According to the petitioner after the order was passed on 15th May, 2002 petitioner should have been appointed contemporaneously and had he been appointed in the year 2002 he would not have lost service period from the month of July, 2002 till the month of April, 2005.

Therefore, it has also been submitted that for the purpose of computation his retiral dues including pension after superannuation, the service

of the petitioner may be notionally treated with effect from July, 2002 instead of 13th April, 2005.

The learned advocate representing the State respondents has opposed the prayer of the petitioner since an intra Court appeal being MAT 1697 of 2002 was preferred against the order dated 15th May, 2002 passed by the coordinate Bench and the final order was passed on the said appeal on 22nd February, 2005 and thereafter petitioner was appointed vide letter dated 13th April, 2005. According to the State respondents there is no delay on the part of the State respondents in appointing the petitioner in the aforesaid post in view of pendency of the appeal before the Hon'ble Division Bench.

It has also been submitted that there is laches and acquiescence on the part of the petitioner since petitioner accepted the appointment vide letter dated 13th April, 2005 without any demur and subsequently filed the writ petition in 2017 claiming service benefits from July, 2002.

Having considered the submissions made on behalf of the parties and on perusal of the relevant materials available on record I find there is substance in the contention made on behalf of the

State respondents. The delay as alleged by the petitioner in appointing him cannot be countenanced in view of the fact that the appeal being MAT 1697 of 2002 was disposed of on 22nd February, 2005 which was preferred by the State respondents against order passed by the coordinate Bench on 15th May, 2002.

In view of preferring an appeal and subsequent disposal of the same on 22nd February, 2005, this Court cannot infer that there is conscious delay on the part of the State respondents in appointing the petitioner.

Apart from the aforesaid aspect there is delay on the part of the petitioner in approaching the Court with the present writ petition since appointment was made in favour of petitioner vide letter dated 13th April, 2005 and after precisely for a period of twelve years the present writ petition was instituted on 2nd August, 2017 claiming service benefits from July, 2002; contemporaneously petitioner did not make any representation or complaint contending that he should have been treated as appointed with effect from July, 2002.

It is trite law that there is no period of limitation in preferring the writ petition but normally steps should be taken by the litigant

within a reasonable time and three years has been found to be reasonable by the Apex Court in the judgment of Shiv Dass -vs- Union of India, reported in (2007) 9 SCC 274.

In above conspectus, the writ petition stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)