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WP.ST. 106 of 2022

Ct. No. 04

Akd

The State of West Bengal & Ors.

Vs.

Dhyanotosh Biswas

Mr. Md. T. M. Siddiqui,

Mr. N. Chatterjee,

Ms. A. Pandey.

... for the petitioners.

Mr. Asim Hati,

Ms. Nandini Sharma.

... for the respondent.

Initially the dispute pertains to voluntary retirement opted by the respondent herein, which was denied by the Department of Health & Family Welfare and the order was challenged before the Tribunal.

By the impugned order the Tribunal held that the applicant performed and fulfilled all the conditions enshrined in Rule 75 (aaa) of the West Bengal Service Rules, Part-I, as it stood prior to its amendment, therefore, the amended provision has no manner of application in this regard and disposed of the tribunal application setting aside the order of the authority and directing the concerned authority to pass a necessary order granting voluntary retirement to the respondent.

The matter is moved today. The learned Advocate for the respondent hands over a bunch of papers to support the contention that since the petitioner was denied voluntary retirement, he was allowed to continue and attained superannuation with effect from 31st December, 2020, obviously after the impugned order is passed. It is further brought to our notice that the retiral benefits and pensionary benefits have been extended after attaining the superannuation and, therefore, the question of

applicability of amended or unamended provisions of Rule 75(aaa) of the West Bengal Service Rules, Part-I, becomes academic and no fruitful purpose would arrive therefrom.

In view of the fact that the main cause of action has diminished by the subsequent event and is no longer surviving, we do not think that there is any necessity of going into the questions as raised in the instant writ petition, as it has become infructuous.

Accordingly, the instant writ petition is dismissed as infructuous.

However, we make it clear that the findings recorded by the Tribunal shall not be construed to attain finality and will not have any binding effect on the petitioner in any future proceeding.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)