

**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 339 of 2012

Ajit Kumar Mahata & Ors.

Vs.

State of West Bengal & Ors.

For the Petitioners : Mr. Soumik Ganguly,
Mr. P. B. Mahata,
Mr. Dilip Kr. Sadhu, Advocates,

For the State : Mr. Sanjib Das,
Mr. Madhusudan Mukhopadhyay, Advocates

Heard & Judgment On : July 19, 2023

DEBANGSU BASAK, J.

1. Petitioners are aggrieved by an order dated April 17, 2012 passed in OA 723 of 2005 by the West Bengal Administrative Tribunal.

2. By the impugned order, the tribunal dismissed the original application, on the ground that although the petitioners were given appointment letter by the department in 1996, but the posts were sanctioned in 1997 with effect from May 1, 1997. Therefore, no effect can

be given to the period since prior to May 1, 1997. It was so clarified by the department writing dated May 17, 2002.

3. Learned advocate appearing for the writ petitioners relies upon two orders of the coordinate Benches rendered on December 19, 2012 in WPST 335 of 2012 (**Gora Chand Bej vs. The State of West Bengal & Ors.**) and the order dated January 9, 2013 in WPST 265 of 2012 (**Jagabandhu Mahata vs. State of West Bengal & Ors.**).

4. Petitioners were appointed in 1996. However, with the posts to which they were appointed were sanctioned with effect from May 1, 1997. They were not to receive any benefit for their past engagement and the same was clarified by a letter dated May 17, 2022 by the department.

5. In **Gora Chand Bej** (supra) and **Jagabandhu Mahata** (supra) independent of anything else, the petitioners therein worked for a period of time which qualified them to receive pension. Therefore, on the basis of qualifying service they were directed to be granted their pensionary benefits.

6. In the facts of the present case, the petitioners are receiving their pensionary benefits on the basis of their qualifying service calculated from May 1, 1997. They seek that their period of service prior to May 1, 1997 should be taken into consideration for calculating pensionary benefits also.

7. We are unable to accede to such a request since their appointment letters came with the clause that they are not entitled to any past benefit for the period of service prior to May 1, 1997. They took the employment on such basis. The posts to which they are appointed were not sanctioned in 1997. Consequently their request for considering the period of service prior to May 1, 1997 was correctly not taken into account

while calculating pensionary benefits by the learned tribunal while directing their claim.

8. In such circumstances, we find no merit in the present writ petition.

9. WP.ST 339 of 2012 along with all connected applications are dismissed without any costs.

10. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Debangsu Basak, J.)

11. I agree

(Md. Shabbar Rashidi, J.)

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