

31.07.2024

Sl. 59

Ct.No. 14

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5601 of 2024

Sankar Pradhan

Vs.

The State of West Bengal and ors.

Mr. Biswarup Biswas

Mr. Pratap Sanfui

Mr. Subhadeep Maitra

...for the petitioner

Mr. Biswabrata Basu Mullick

Ms. Munmun Ganguly

...for the State

Affidavit of service filed by the petitioner is
taken on record.

The order dated 4th August, 2023
communicated to the petitioner vide memo dated
8th August, 2023 is impugned in the instant writ
petition.

By the said order, the Commissioner
disallowed the prayer of the petitioner to
condone the shortfall in his qualifying service
period for receiving pension.

The petitioner is short of 1 year 2 months
and 11 days in completing 10 years of service for
being eligible for grant of pension as per the
provisions of the West Bengal Recognized Non-
Government Educational Institutional Employees
(death-cum-retirement benefit) Scheme, 1981.

The reasoned order mentions that deficiency in six months can be condoned and not more than that.

The petitioner has relied upon the order passed by the Hon'ble Division Bench on 11th April, 2022 in MAT 1211 2019 (State of West Bengal & Ors. Vs. Sumohan Mondal & Ors.) With CAN 1 of 2019 (Old CAN 11896 of 2019) With CAN 2 of 2019 (Old CAN 11897 of 2019) and MAT 382 of 2019 (District Primary School Council and Ors. Vs. Sumohan Mondal and ors.), wherein the Court held that as the delay was not attributable to the petitioner, the direction passed by the Hon'ble Single Judge to condone the shortfall in the service period cannot be interfered with.

The petitioner further relies upon the judgment dated 31st October, 2019 passed by the Hon'ble Division Bench of this Court in W.P.S.T. 112 of 2019 (Asim Kumar Chakrabarti Vs. The State of West Bengal & Ors.), wherein the Court directed disbursement of pension and all retirement benefits on notional basis after condoning the deficiency of service.

Learned advocate representing the State respondents relies upon the instruction forwarded by the District Inspector of Schools (PE), South 24 Parganas mentioning that the

petitioner would not be entitled to the benefit as claimed.

I have heard the submissions made on behalf of both the parties and have perused the materials on record.

In the instant case, the Commissioner has taken the pain to mention in details the reasons for delay in issuing the letter of appointment in favour of the petitioner. Several Court cases followed for which the process of appointment got delayed. The right of the petitioner to get appointment, however, crystallized way back in the year 2009.

Had the appointment letter been issued in favour of the petitioner immediately upon conclusion of the recruitment process, the petitioner could have completed the qualifying service period for receiving pension. The delay in issuing the letter of appointment was no way attributable to the petitioner.

The ratio laid down by the Hon'ble Division Bench is that it would be inequitable to not allow the petitioner to get the benefit of the period during which the litigation proceeded.

In line with the law laid down by this Court in the matter of Asim Kumar Chakrabarti (supra) this Court is of the opinion that as the delay was not attributable to the petitioner he should be

given the benefit of condoning the shortfall in the qualifying service period.

In view of the above, the Director of Pension, Provident Fund and Group Insurance, West Bengal and the concerned District Inspector of Schools (P.E.), South 24 Parganas are directed to take necessary steps to process the pension case of the petitioner by condoning the shortfall in service at the earliest, but positively within a period of eight weeks from the date of communication of this order.

The aforesaid respondent shall ensure that the terminal dues of the petitioner are released in his favour positively within a period of sixteen weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Amrita Sinha,J.)