

10.09.2024
Court No. 18
Item No. 162 (ML)
(Suvendu)

W.P.A. 9370 of 2023

Saidur Rahaman
-Versus-

The State of West Bengal & Ors.

Mr. S.P. Pahari
Mr. Tapan Kumar Mahapatra
...for the petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
.....for the State respondents

By presenting this writ petition, petitioner has claimed modification of approval granted to the petitioner being an organizing assistant teacher with effect from 2nd July, 2014. According to the petitioner, school was upgraded as Class X school with effect from 1st May, 1996. However, approval of appointment was wrongly granted on and from 2nd July, 2014. Therefore, State respondents are required to modify approval memo thereby granting approval in favour of the petitioner on and from 1st May, 1996. Petitioner has retired on superannuation on 31st July, 2015.

During course of submission, reliance has been placed on an order of this Court dated 12th

April, 2022 passed on another writ petition being WPA 8695 of 2016.

State respondents are represented by learned advocate who has opposed the prayer of the petitioner on the ground of delay. According to the State respondents, approval of appointment was granted with effect from 2nd July, 2014 and petitioner after discharging duty as an approved teacher retired on superannuation on 31st July, 2015 and the present writ petition has been instituted on 18th April, 2023. It is also submitted that an order of this Court dated 12th April, 2022 passed in WPA 8695 of 2016 is not applicable in the present case since on a separate set of facts said order was passed.

Having considered the submissions made on behalf of the parties, it appears that writ petition is afterthought since petitioner was granted approval of appointment with effect from 2nd July, 2014 and petitioner accepted approval memo without demur and worked upto 31st July, 2015 being the date of his superannuation. Present writ petition was instituted precisely eight years after superannuation of the petitioner seeking approval of appointment with effect from 1st May, 1996. It is already decided

by the Hon'ble Supreme Court that litigant has to approach the Court within a reasonable time, that is three years from the date of accrual of cause of action. In the present case, petitioner accepted grant of approval of appointment with effect from 2nd July, 2014 without any demur and worked upto superannuation on 31st July, 2015 and thereafter instituted the present writ petition on 18th April, 2023.

In addition thereto, it appears that the order passed by this Court on 12th April, 2022 is not applicable in the present case since that was passed in a writ petition which was filed in 2016 and it was specifically recorded in the said order that the petitioner in that writ petition filed another writ petition being W.P. 16787 (W) of 1997 which was disposed of by a Coordinate Bench on 4th December, 1997 upon recording the facts that name of six candidates were forwarded by the concerned Madrasah to the concerned District Inspector of Schools for approval and the Coordinate Bench directed concerned District Inspector of Schools to take decision on the claim of the petitioner relating to grant of approval from the date of upgradation of the concerned Madrasah. Therefore, on different fact situation order was passed by this Court on

12th April, 2022 while disposing of the writ petition being WPA 8695 of 2016 and that order does not come in aid of the petitioner.

Accordingly, the writ petition is dismissed.

There shall be, however, no order as to costs.

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

(Saugata Bhattacharyya, J.)