

20.08.2024
ML.164
Ct. No.18
PP

WPA 9540 of 2023

Momotaz Bibi
Vs.
The State of West Bengal & Ors.

Mr. Goutam Dey,
Ms. Dipanwita Ganguly,
Ms. Ankita Ghosh

... for the petitioner.

Mr. Ananda Dulal Sarkar

....for the State.

Affidavit of service filed in Court today on behalf
of the petitioner is taken on record.

The petitioner was appointed on compassionate
ground on 1st April, 2013 and superannuated on 31st
January, 2023. The grievance of the petitioner is that
in spite of her superannuation on 31st January, 2023,
pensionary benefit has not been released in her favour
on the count that the qualifying service of the
petitioner fell short off 10 years, which is required in
terms of relevant provisions of the Death-cum-
Retirement Benefit Scheme, 1981.

The petitioner prays for direction upon the State
respondents to release pensionary benefits on
condonation of short fall in qualifying service.

Learned advocate for the petitioner has relied upon the judgment of the Hon'ble Division Bench passed on 28th May, 2021 in an intra-court appeal, being MAT 1917 of 2019 (The State of West Bengal vs. Rabindra Nath Ghosh).

State respondents are represented by learned advocate who submits that in terms of the relevant provisions of Death-cum-Retirement Benefit Scheme, 1981, an employee of government aided secondary school is required to put in at least 10 years approved service in order to make him/her eligible to receive pension.

Having considered the respective submissions made by the parties, the writ petition stands disposed of by directing the Secretary, School Education Department, being the respondent no.1, to decide the entitlement of the petitioner to receive pensionary benefits on condonation of short fall in qualifying service, which is less than six months.

Reasoned decision shall be taken by the respondent no.1 within 8 weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or her representative. The decision to be taken by the respondent no.1 shall be communicated to the petitioner by one week

thereafter. While taking decision, the respondent no.1 is directed to follow the ratio of the judgment in Rabindra Nath Ghosh (supra).

There will be no order as to costs.

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

(Saugata Bhattacharyya, J.)