

07.08.2024
DL-20
(Dd)

MAT/893/2024
With
IA NO: CAN/1/2024,
WITH
CAN/2/2024

THE PRINCIPAL SECRETARY, DEPARTMENT. OF
URBAN DEVELOPMENT AND MUNICIPAL AFFAIRS
& ORS.
VS
AMAL CHAKRABORTY & ORS.

Mr. Naba Kumar Das,
Ms. Suman Singh, Advocates
... .. For the Appellants

Mr. Santi Das,
Mr. R. D. Bhowmick, Advocates
... .. For the Respondent no.1/writ petitioner

1. CAN 1 of 2024 is an application for condonation of delay. Department reports a delay of 41 days. For the ends of justice causes shown in the application for condonation of delay are accepted as sufficient. Delay of 41 days in preferring the appeal is condoned. CAN 1 of 2024 is **disposed of**.
2. Appeal is directed against the order dated February 26, 2024 passed in WPA 27174 of 2023.
3. By the impugned order, learned Single Judge directed condonation of 2 months 18 days lack of qualifying service for the writ petitioner for the receipt of pensionary benefit.
4. Learned advocate appearing for the appellants submits that, the impugned order was passed in the second round of litigation. He submits that, the writ

petitioner did not possess qualifying service of 10 years for receipt of pensionary benefits. He points out that, the writ petitioner was initially engaged as a casual worker. The period of time during which the writ petitioner worked as a permanent employee was less than the qualifying period prescribed. Consequently, the writ petitioner is not entitled to pensionary benefits. According to him, learned Single Judge erred in directing pensionary benefits to be granted by condoning qualifying period of service of 2 months 18 days.

- 5.** Respondent no. 1/writ petitioner is represented.
- 6.** Learned Single Judge took into consideration the fact that, the writ petitioner put in 24 years of service with the appellants. Out of 24 years, 14 years were as casual employee and 2 months 18 days shy of 10 years as permanent employee. Learned Single Judge, therefore, directed condonation of deficiency of qualifying service so far as the writ petitioner is concerned for the purpose of availing of the pensionary benefits.
- 7.** Writ petitioner before us is an employee of a municipality. Municipality is an Article 12 Authority. Learned Single Judge exercised discretion and directed condoning deficiency in the period of service.
- 8.** The issue as to whether, the period of 2 months 18 days deficiency in qualifying service for pensionary benefits can be condoned or not, was considered by the Division Bench in MAT 428 of 2019 decided on August 31, 2021. The coordinate Bench held that, such period of service can be condoned by operation of Articles 14 and 21 of the Constitution of India.

9. Parties are governed by the ratio decided in MAT 428 of 2019 decided on August 31, 2021.
10. In such circumstances, MAT 893 of 2024 along with connected application are **dismissed**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)