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08.03.2024
Ct. No. 11
Jayanta

MAT 914 of 2023
With
IA NO: CAN 1/2024

Radha Nath Mahato
Vs
The State of West Bengal & Ors.

Ms. Kaberi Ghosh (Dey)
..... For the Petitioner.
Mr. Biswabrata Basu Mallik, Ld. AGP
Mr. Tamal Taru Panda
..... For the State/respondents.

Affidavit-of-service filed by the appellants be kept on record.

The present writ petition has been filed challenging an order dated 24th April, 2023 passed by the learned single Judge in the writ petition being WPA 11652 of 2022. The said writ petition was preferred, *inter alia*, praying for grant of notional retrospective effect of service to the writ petitioner/appellant with effect from 28th June, 1990.

Ms. Ghosh (Dey), learned advocate appearing for the appellant submits that the appellant's father died in harness on 17th April, 1990. Due to the sudden loss of the sole bread earner, the family was under extreme financial distress and as such the appellant submitted an application for grant of compassionate appointment on 28th June, 1990 but his claim was illegally kept in abeyance for a long period of twenty-nine years and ultimately he was granted compassionate appointment

by an order dated 24th October, 2019. The appellant has now retired on 31st October, 2023. Due to the laches on the part of the respondents and for keeping his appointment in abeyance without any reasons, the appellant could not complete ten years of service and he had been illegally deprived of his right to avail pension. Had the appellant's claim been considered by the respondents at the appropriate time, he could have discharged more than ten years of service, entitling him to pension. In the said conspectus, the appellant preferred the writ petition for condonation of the deficiency in qualifying service by grant of notional fixation from the date of submission of his representation for compassionate appointment on 28th June, 1990.

Mr. Basu Mallik, learned Additional Government Pleader appearing for the State respondents, however, denies and disputes the claim of the appellant and submits that there is no statutory provision entitling him to grant of notional benefits from the date of his submission of the representation for compassionate appointment.

Heard the learned advocates and considered the materials on record.

Indisputably, the appellant was appointed by a memo dated 25th October, 2019 and he retired from his services on 31st October, 2023, having rendered about four years of service. The appellant had not discharged a minimum

of ten years of qualifying service to avail pension. There is no provision towards condonation of such shortage of qualifying service through grant of notional benefits.

In the said conspectus, the learned single Judge rightly refused to exercise discretion in favour of the appellant and dismissed the writ petition.

We do not find any infirmity in the order impugned and accordingly, the appeal and the connected application, are dismissed.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)