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09.07.2024
Ct. No. 18
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W.P.A. 14327 of 2024

**Debasis Sarma Sarkar
Vs.
The State of West Bengal & Ors.**

Mr. Anindya Lahiri
Ms. Pranati Das
...for the petitioner

Mr. Supriyo Chattopadhyay
Ms. Iti Dutta
...for the State

Affidavit of service and notice are filed on behalf of the petitioner and same are taken on record.

In spite of service of notice upon the State-respondents those respondents are not represented. Court requests Mr. Supriyo Chattopadhyay, learned Additional Government Pleader to represent the State-respondents. The office of the Learned Government Pleader is requested to regularize the engagement of Mr. Chattopadhyay, learned advocate along with junior of his choice.

Mr. Anindya Lahiri, learned advocate representing the petitioner submits that in spite of superannuation of the petitioner from the post of assistant teacher in a Government aided school on 30th June, 2023, he is not getting pension. It is also fairly submitted that the reason for not sanctioning pension is shortfall in qualifying

service of the petitioner. There is a shortfall of 5 months 9 days on the date of superannuation of the petitioner on 30th June, 2023 reckoning the date of appointment of the petitioner with effect from 10th December, 2013.

The learned advocate for the petitioner has submitted that in terms of the relevant provision of DCRB Scheme of 1981 if the shortfall in qualifying service is less than 6 months in that event the authority is empowered to condone such shortfall for extending the benefit of pension in favour of the petitioner. In support of such contention reliance is placed on the judgment of the Hon'ble Division Bench dated 28th May, 2021 passed on an intra Court appeal being **MAT 1917 of 2019 (The State of West Bengal Vs. Rabindra Nath Ghosh)**.

Mr. Chattopadhyay, learned Additional Government Pleader submits that since the matter relates to release of pension which has not been released on the ground that petitioner could not complete 10 years of qualifying approved service on the date of his superannuation, the issue needs to be considered by the appropriate State-respondents.

Having considered the submissions made on behalf of the parties and taking note of the facts involved in this writ petition the same stands disposed of directing the Principal Secretary, School Education Department being respondent no. 1 to take decision on the claim of the petitioner to release pensionary benefits on condonation

of shortfall in qualifying service. Such decision to be taken by the respondent no. 1 within a period of 8 (eight) weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or his representative. While taking decision the respondent no. 1 is directed to take note of the observation made by the Hon'ble Division Bench in the judgment dated 28th May, 2021 and the relevant provisions of the DCRB Scheme 1981. The decision to be taken by the respondent no. 1 shall be communicated to the petitioner within 1 (one) week thereafter.

Needless to record herein that if the decision is taken by the respondent no. 1 adjudicating that the petitioner is entitled to receive pensionary benefits, consequential steps shall be taken by the respondent authority for expeditious release of such benefits.

However, there shall 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.)