

19.12.2024
Item No.4, DL
Court No.19
AJ.

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

W.P.A. 14539 of 2024

Swapan Kumar Ghosh

-Vs-

The State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. Siddhartha Sankar Mandal,
Mr. S.M. Ali,
Sk. Imtiazuddin.
.....for the petitioner.

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

Mr. Bhaskar Prasad Vaisya, Ld. A.G.P.,
Mr. Gourav Das.
.....for the DPSC, 24-Parganas (South).

The petitioner was an Assistant Teacher in Tala Gobindapur F.P. School under Kulpi-I Circle of District Primary School Council, 24-Parganas (South), on attaining the age of superannuation, he has retired from the said service on November 30, 2019.

The Principal Secretary, School Education Department, Government of West Bengal, the respondent no.2 herein by the impugned order dated March 08, 2021 has rejected the prayer of the petitioner for condonation of shortfall of 3 months' 14 days in his qualifying service to get the benefit of pension.

A report was called for from the Finance Secretary, Government of West Bengal, the added respondent no.8 herein, the Additional Chief Secretary to the Government of West Bengal, acting as such, has filed his report dated December 16, 2024 in compliance with the said direction, the said report is taken on record.

In the report, the rejection of the prayer of the petitioner has been sought to be justified placing reliance on the note appended to 'paragraph 7(e)(iv)' of the DCRB Scheme, 1981.

In view of the judgment of the Hon'ble Division Bench of this Court passed in MAT 1917 of 2019(***THE STATE OF WEST BENGAL VS. RABINDRA NATH GHOSH***), the issue is no longer *res integra*.

It is suffice to quote the following observation of the Hon'ble Division Bench:-

"It is thus clear from the aforesaid decision that the note which is in the nature of an explanation cannot in any way interfere with or change the substantive provision or prevent the working of the Scheme of 1981 by becoming a hindrance in extending benefit to the writ petitioner under the beneficial scheme."

In view of the discussion made above, the order impugned is set aside. The shortfall of 3 months' 14 days in qualifying service of the petitioner is condoned.

The District Inspector of Schools (P.E.), District : 24-Parganas (South), the respondent no.4 herein is directed to prepare the pension papers of the petitioner and to send the same to the Director of Pension, Provident Fund and Group Insurance (DPPG), the respondent no.7 herein, the said respondent, on receipt of the said papers, shall take forward steps in accordance with law for issuance of Pension Payment Order in favour of the petitioner.

WPA 14539 of 2024 is disposed of with the above terms without any order as to costs.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)