

16.07.2024  
Ct. No. 14  
Sl. No.138.  
KB

**In The High Court at Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

**W.P.A. 15651 of 2024**

**Shomnath Das  
Vs.  
The State of West Bengal & Ors.**

Mr. B. N. Ray  
... For the petitioner.

Mr. Shamim ul Bari  
Mr. Murari Chakraborty  
... For the State respondents.

Mr. Bhaskar Prasad Vaisya  
Mr. Ranjan Saha  
... For the DPSC, South 24-Pgs.

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

The petitioner, a retired primary school teacher,  
is not getting his pension as he has fallen 42 days  
short of qualifying the period for obtaining pension.

The District Inspector of Schools (Primary  
Education), South 24-Parganas *vide* communication  
dated 10<sup>th</sup> March, 2023 forwarded a request to the  
Commissioner of School Education, West Bengal  
seeking condonation of shortfall of 42 days. There is no  
response from the end of the Commissioner.

The petitioner relies upon the Memorandum dated 2<sup>nd</sup> February, 2009 passed by the Officer on Special Duty and Executive Officer, Joint Secretary, School Education Department, Budget Branch, being Memo No.26-SE(B)/IM-13/08 which mentions that in terms of paragraph 7(e) (iii) of the West Bengal Recognized Non-Government Educational Institution Employees (DCRB) Scheme, 1981 fraction of a year equal to three months and above is treated as completed six monthly period of service and reckoned as Qualifying Service for the purpose of pensionary benefits in terms of Memo No.14971-F dated 16<sup>th</sup> December, 1983.

The petitioner relies upon various decisions passed by this Court where similar shortfall has been condoned.

In view of the above, the instant writ petition is disposed of by directing the Secretary, Department of School Education to take a decision with regard to the petitioner's prayer for condonation of the shortfall in the qualifying service period for receiving pension in terms of the Government Memorandum mentioned hereinabove.

The Secretary is directed to take a decision in the matter at the earliest but positively within a period of eight weeks from the date of communication of this

order. Reasoned order shall be passed and communicated to the petitioner immediately thereafter.

All consequential steps, if the shortfall is condoned, shall be taken by the aforesaid respondent in accordance with law. In such event, the aforesaid respondent shall ensure that Pension Payment Order is released in favour of the petitioner positively within a period of three months from the date of passing the reasoned order.

Learned advocate for the petitioner is directed to forward to the aforesaid respondent a copy of the communication dated 10<sup>th</sup> March, 2023 addressed to the Commissioner of School Education at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

**(Amrita Sinha, J.)**