

24.07.2024
Ct. No. 18
Sl. No. 11
tbsr

WPA 17716 of 2024

Tarapada Khatua
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Syed Mansur Ali
....for the petitioner

Mr. Himadri Sikhar Chakraborty
....for the State

Affidavit-of-service filed on behalf of the petitioner
is taken on record.

The petitioner prays for reckoning his past temporary service as an assistant teacher for three periods, i.e. 26th August, 1983 to 29th February, 1984, 1st March, 1984 to 31st August 1984 and 1st March, 1985 to 8th October, 1985 prior to his appointment on substantive basis as an Assistant Teacher with effect from 9th October, 1985 for computation of pension and retiral dues. It is also submitted that the petitioner retired on superannuation on 31st October, 2016 and thereafter has received all retiral dues including pension.

Such prayer made on behalf of the petitioner is opposed by the learned advocate representing the State respondents on the ground that three separate periods during which the petitioner rendered service as Assistant Teacher on temporary basis with consolidated pay of Rs.

150/- per month. Therefore, the same cannot be treated as continuous approved service of the petitioner while determining his retiral dues and pension.

Having considered the submissions made on behalf of the parties and taking note of the three separate approval of appointment granted by the concerned District Inspector of Schools vide memoranda dated 7th January, 1984, 12th July 1984 and 30th March 1987, it transpires that for three separate periods the petitioner rendered service as an Assistant Teacher purely on temporary basis against consolidated monthly pay of Rs. 150/-. Subsequently, the petitioner was appointed on substantive basis with effect from 9th October, 1985 and retired on superannuation on 31st October, 2016.

Considering the tenure of service as a permanently approved Assistant Teacher the State respondents have already released retiral dues including pension before filing this writ petition. The petitioner has made a claim for consolidation of pension and retiral dues taking into consideration three aforesaid periods during which the petitioner rendered service as an Assistant Teacher on temporary basis.

Considering the approval granted by the concerned District Inspector of Schools against aforesaid three periods prior to petitioner's substantive

appointment on and from 9th October, 1985, it appears during said three occasions, the petitioner rendered service temporarily for which petitioner's pay was not placed on regular scale of pay. Nature of service which was rendered by the petitioner prior to his substantive appointment on 9th October, 1985 is not akin to the service which was rendered by the petitioner from 9th October, 1985. Therefore, the prayer of the petitioner for reckoning the aforesaid three periods prior to his appointment on substantive basis on 9th October, 1985 cannot be countenanced.

In addition thereto, the petitioner retired on superannuation on 31st October, 2016 and after receipt of retiral dues including pension precisely on lapse of a period of 8 years the present writ petition has been instituted. The claim has not been made by the petitioner contemporaneously after his superannuation. The delay caused in approaching this Court with the present writ petition claiming benefit in connection with his service during aforesaid three periods on temporary basis, is not explained in this writ petition. It is trite that there is no statutory period of limitation in filing the writ petition but the litigant has to approach the Court within the reasonable time and that is three years.

In aforesaid conspectus, the writ petition stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Saugata Bhattacharyya, J.)