

23 07.08.2024
rkd Ct.18

W.P.A. 19466 of 2024

Asok Kumar Misra

-vs-

The State of West Bengal & Ors.

Ms. Sabita Khutia (Bhunya)

....for the petitioner.

Mr. Shankar MUKherjee,
Ms. Shakuntala Mukherjee

....for the State.

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

Matter relates to sanction of retiral dues in
favour of the petitioner who retired from the post of
Assistant Teacher on 31st January, 2023 on
condonation of shortfall in qualifying service.

The learned advocate representing the
petitioner submits that previously he worked as
Mukhya Samprasarak from 12th June, 2004 till 21st
November, 2013 in a Madhyamik Shiksha Kendra
and on being selected in 12th RLST, 2011 he was
appointed as Assistant Teacher in a Government
aided higher secondary school on 22nd November,
2013 and worked there upto 31st January, 2023.

According to the petitioner on the date of
his superannuation on 31st January, 2023 the span
of his service fell short precisely by nine months of
qualifying service which needs to be condoned in

releasing pensionary benefits in his favour.

In support of such contention it is submitted that the service which was rendered by the petitioner as Mukhya Samprasarak from 12th June, 2004 to 21st November, 2013 needs to be reckoned with for condoning shortfall in qualifying service of the petitioner as Assistant Teacher. In this regard reliance is placed on the Government memorandum dated 20th May, 1988 being No.180-Edn(B).

The learned advocate representing the State respondents has opposed the prayer of the petitioner on the count that the aforesaid circular dated 20th May, 1988 may not be applicable in case of the petitioner while adjudging petitioner's eligibility to receive pension on condonation of shortfall in service.

According to the State respondents the said circular dated 20th May, 1988 may not apply in case of service rendered by the petitioner as Mukhya Samprasarak.

Having considered the submissions made on behalf of the parties the writ petition stands disposed of directing the Secretary, School Education Department being respondent no.1 to take decision on the representation of the petitioner

dated 5th March, 2024 by twelve weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or his representative.

The reasoned decision to be taken by the respondent no.1 shall be communicated to the petitioner by one week thereafter.

At the time of consideration of the matter petitioner shall be at liberty to rely upon the relevant circulars and the orders passed by the Hon'ble High Court pertaining to the issue involved in this writ petition.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)