

14.08.2024
Ct. No. 14
Sl. No.50
AGM

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

W.P.A 19799 of 2024

**Khandakar Fazlul Karim
-versus
The State of West Bengal & Ors.**

**Mr. Anjan Bhattacharya.
... For the petitioner.**

**Mr. Deb Narayan Banerjee.
Mr. SM Samim Ullah.
... For the State.**

**Mr. V. P. Baisya.
Mr. Gourav Das.
... For the DPSC, South 24 Parganas.**

Leave granted to the learned advocate on record of the petitioner to implead the District Inspector of Schools, South 24 Parganas as party respondent in the instant writ petition. The formality of serving a copy of the writ petition upon the added respondents stands dispensed with as the State is already represented by the learned counsel.

The petitioner is a retired primary school teacher. As he did not complete the qualifying service period of ten years, he has been found not to be eligible for receiving pension.

The petitioner submits that there was inordinate delay in the recruitment process. The recruitment process started in the year 2000 but the appointment letter was issued only in the year 2010, that too, in terms of the order passed by the Court on 4th October, 2005 in **WP 9218 (W) of 2005** with **WP 20378 (W) of 2003**. The petitioner was

impleaded as petitioner no. 6 in **WP 20378 (W) of 2003.**

It has been submitted that because of the delay in issuance of the appointment letter in favour of the petitioner, he could not complete the qualifying period for receiving pension. Prayer has been made to condone the shortfall in service so that the petitioner becomes eligible to receive pension.

Learned advocate representing the State respondents has obtained instruction from the Assistant Secretary, School Education Department wherein it has been mentioned that as the petitioner did not qualify the ten years service period, he will not be eligible to receive pension.

From the Pension Payment Order issued in favour of the petitioner, it appears that he is deficient in one year one month and twenty three days to complete ten years in service. The petitioner has served for eight years ten months and seven days. The delay in question is no way attributable to the petitioner. It is because of the delay in issuance of the appointment letter in favour of the petitioner that he could not complete the entire qualifying period of service. Had the appointment letter been issued in favour of the petitioner in proper time, he would have certainly completed the qualifying service period.

In view of the above, the petitioner ought not to be deprived of his pension for no fault on his part.

Accordingly, the instant writ petition is disposed of by directing the District Inspector of

Schools, South 24 Parganas to give notional benefit to the petitioner for the purpose of grant of pension by treating him to be in service for ten years. The said authority shall condone the shortfall in the qualifying service period of the petitioner and calculate his pension accordingly.

It is made clear that the petitioner will not receive any salary or further benefit because of condoning the shortfall in his qualifying service period. The shortfall is being condoned only for the purpose of treating the petitioner to be eligible for receiving pension.

The District Inspector of Schools shall process the pension case of the petitioner at the earliest but positively within a period of four months from the date of communication of this order. All consequential steps till the issuance of PPO shall be taken by the District Inspector of schools immediately thereafter.

Learned advocate for the petitioner is directed to forward a copy of the order dated 4th October, 2005 passed in **WP 9218 (W) of 2005** with **WP 20378 (W) of 2003** to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)