

20.08.2024.
PB
Sl. No.119.
Ct. No.14.

**In The High Court At Calcutta
Constitution Writ Jurisdiction
Appellate Side**

WPA 20664 of 2024

Biswanath Dolui
Vs
The State of West Bengal & Ors.

Ms. Sabita Khutia (Bhunya),
Mr. Krishna Pada Santra.
.....for the petitioner.

Mr. Sushanta Pal,
Ms. Bineeta Bhattacharjee.
.....for the State.

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

The reasoned order dated 29th May, 2023 passed
by the District Inspector of Schools (P.E) Howrah,
refusing to condone the shortfall of the qualifying
service period of the petitioner is impugned in the
instant writ petition.

The petitioner participated in the recruitment
process of primary school teacher in the year 1986,
but due to prolonged litigation appointment letter was
issued in favour of the petitioner in the year 2003. The
petitioner has failed to serve for the qualifying period
of ten years to receive pension.

Whether an employee would be eligible to receive pension on condoning the shortfall in the qualifying service period if the delay in issuing appointment letter was not attributable to the employee has been decided by this Court vide judgment dated 05.08.2024 in WPA 10763 of 2023 (Bansi Badan Kole Vs. The State of West Bengal and ors.).

It has been held that the shortfall in the qualifying service period is liable to be condoned if the delay in issuing the appointment letter is not attributable to the employee.

In line with the said decision, the instant writ petition is disposed of by setting aside the impugned order dated 29th May, 2023.

The District Inspector of Schools, Howrah is, accordingly, directed to grant notional benefit to the petitioner by treating him to be in service for the qualifying period of ten years.

The District Inspector of Schools, (Primary Education), Howrah is directed to proceed processing with the pension file of the petitioner and ensure that the petitioner receives his pension at the earliest but positively within a period of four months from the date of communication of this order.

It is made clear that the petitioner will not be entitled to salary for the period which he did not work

and will also not be entitled to any interest for the delayed payment of pension. He will only get the benefit of ten years in service.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)