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02.08.2024  
d.p.

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

**W.P.A. 26244 of 2023**

**Bikash Chandra Bijali  
-versus  
The State of West Bengal & Ors.**

**Ms. Santi Das,  
Ms. Satabdi Das.  
...For the Petitioner.**

**Mr. Bhaskar Prasad Vaisya,  
Mr. Nilay Baran Mandal  
...For the State.**

The petitioner is a primary school teacher. He participated in the recruitment process of the year 2006 and was selected for appointment in the year 2010, but because of several pending litigations the appointment letter was not issued in his favour.

By order dated 16<sup>th</sup> May, 2013 in a writ petition filed by the petitioner being W.P. 13675 (W) of 2013, the Court granted liberty to the petitioner to appear before the Chairman, North 24-Parganas DPSC on 12<sup>th</sup> June, 2013 along with all documents/testimonials for joining. The petitioner was directed to give a written undertaking that he would withdraw himself from the pending writ petition. In compliance of the aforesaid order the petitioner joined service.

The petitioner seeks arrear salary and all other service benefits from 2010.

It has been submitted that the delay in issuing the appointment letter in his favour was not attributable to him and accordingly, the petitioner should not be deprived of the benefits during the said period of time.

A report has been filed by the Chairman, DPSC, North 24-Parganas wherein it has been mentioned that there is no provision for giving retrospective effect to the date of joining of the teacher. There is also no provision for providing any notional benefit for joining of the teacher.

I have heard the submissions made on behalf of the parties and have perused the materials on record.

The Court in the order dated 16<sup>th</sup> May, 2013 clearly recorded that the petitioner was entitled to be appointed in the recruitment process, 2006. The petitioner participated in the interview held on 31<sup>st</sup> January, 2010. Though he was selected for the post of Assistant Teacher (Primary) but the appointment letter was not issued in his favour. The candidates who appeared along with the petitioner and were successful in the selection process, were issued the letter of appointment in the year 2010.

Several litigations followed and ultimately in terms of the order dated 16<sup>th</sup> May, 2013, appointment letter was issued in his favour. The petitioner is in service on and from 12<sup>th</sup> June, 2013. Admittedly, the petitioner did not perform any service for the period 2010 till his date of joining. Directing payment for the period an employee did not perform any job may not be proper.

Accordingly, the prayer of the petitioner for grant of salary for the period during which he did not render any service cannot be allowed.

However, as the delay in issuing the letter of appointment is not solely attributable to the petitioner, accordingly, the respondent authorities are directed to grant notional benefit to the petitioner from the date in the year 2010 when similarly situated candidates who participated in the interview on 31<sup>st</sup> January, 2010 were issued the letter of appointment. The petitioner will not get any financial benefit for the period prior to his date of joining but the period from 2010 till 2013 shall be counted for his seniority and for computing his total length in service.

The respondent authorities are directed to rectify the service book of the petitioner by granting notional benefit to him in terms of the directions passed hereinabove.

The writ petition stands disposed of.

The report filed by the Chairman, North 24-Parganas DPSC and the exception thereto filed by the petitioner be retained with the records.

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

**( Amrita Sinha, J.)**