

03.04.2024.
Court No. 13
Item no. 146
pk

W.P.A. No. 28761 of 2023

Harisankar Mondal
Versus
State of West Bengal and others

Mr. Lutful Haque,
Ms. Taharima Khatun

..For the petitioner.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee

... For the State.

1. Affidavit of service filed in Court is taken on record.
2. The petitioner has served as an Assistant Teacher in Samserganj Amanat Memorial Primary School, Lalpur, Dhulian Circle. He retired in January, 2020. He had completed 9 years, 11 months and 19 days of service. There is a short fall of 11 days in the tenure period required for entitlement of pension.
3. The Joint Secretary, Government of West Bengal indicated that there was no provision for pension to primary teachers rendering less than 10 years of qualifying service.
4. This Court notes that the School Education Department by Notification dated 02.02.2009 has empowered the DPPG, West Bengal upon recommendation of the School Education Department, West Bengal to condone upto six

months of deficiency in length of service for the purpose of condonation.

5. The DCRB Rules, 1981 also provide for similar provisions of such condonation.
6. In that view of the matter, the impugned order dated 04.03.2022 cannot be sustained in law and is quashed and set aside.
7. This Court would have normally remanded the matter to the School Education Department for an appropriate recommendation to the DPPG, West Bengal.
8. However, given the fact that the petitioner's short fall of only 11 days of service in the tenure period requirement for pension, this Court in exercise of extraordinary power under Article 226 of the Constitution of India hereby condones 11 days of short fall of the petitioner.
9. The DPPG, West Bengal is therefore directed to issue Pension Payment Order to the petitioner based on his last drawn salary and commence pension to the petitioner as expeditiously as possible preferably within one month from date.
10. Arrears of pension shall be paid to the petitioner within two months from date with interest at the rate of 4 per cent per annum.
11. The petitioner shall communicate this order to the DPPG, West Bengal and the School Education Department, West Bengal.

12. The writ petition is disposed of.
13. There will be no order as to costs.
14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)