

Court No. 2
04.9.2024
(Item No. 43)
(AB)

IN THE HIGH COURT AT CALCUTTA
Circuit Bench At Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 1849 of 2024

Debasish Bhattacharjya
VS
The State of West Bengal & Ors.

Mr. Anirban Banerjee
Mr. Manabendra Ghosh
..... for the petitioner
Mr. Subir Kumar Saha, Ld. AGP
Mr. Sandip Guha Roy
.... For the State

Affidavit of service filed today in Court, is taken on record.

Mr. Anirban Banerjee, learned counsel appearing for the petitioner.

Mr. Subir Saha, learned Additional Government Pleader being ably assisted by Mr. Sandip Guha Roy, learned State counsel appear for the respondents. Learned State counsel files a report dated September 2, 2024 issued under the seal and signature of the Principal-in-charge, Jalpaiguri Polytechnic Institute, Jalpaiguri, the same is taken on record.

The facts are admitted from records. The petitioner being the brother of the deceased Teacher **Aloke Ranjan Bhattacharjee**, since deceased, received the compassionate appointment as would be

evident from the appointment letter dated **August 26, 2009, annexure P-3** at **page 20** the writ petition.

Drawing attention to the documents being **annexure P-2** at **pages 16 to 19** to the writ petition learned counsel for the petitioner submits that, way back on **August 17, 1999** an enquiry committee after scrutiny of all the records became satisfied and ultimately held that the petitioner was eligible to receive the said compassionate appointment. The petitioner was accordingly on **August 27, 1999** at **page 19** to the writ petition was recommended for the appointment.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record it appears that though the recommendation was made for appointment of the petitioner on compassionate ground on **August 27, 1999** the appointment letter was ultimately issued on **August 26, 2009**. The petitioner has worked with an unblemished career record. The petitioner retired on **February 29, 2016**. The report today filed on behalf of the State shows that, the petitioner had served the employer for an uninterrupted period of **six years six months and five days**. The Pension Payment Order shows that his pension was refused.

The record shows that, though the approval for appointment and recommendation was made way

back in **1999** but the petitioner actually received the appointment letter and joined in the service in **August 2009**. This delay of about **10 years** could not be and cannot be attributed to the petitioner. Had the petitioner joined immediately in **August 1999** with the approval of the compassionate appointment, the petitioner by the time of retirement would have completed the period of time which would ensure the petitioner to receive the full pension benefit. At the time of recommendation in **August 1999** the petitioner was about **43 years** old.

In view of the foregoing reasons and discussions, this Court directs that, the appropriate respondent authorities shall give the **notional benefit** to the petitioner **on and from August 27, 1999** in every respect to receive the retiral benefit in accordance with law.

Accordingly, the respondent No. 2 along with any other appropriate jurisdictional authority shall forthwith re-cast and issue the revised Pension Payment Order in favour of the petitioner taking the notional benefit into account, as directed herein, in accordance with law but positively within a period of **three weeks** from the date of communication of this order. The respondent No. 2 then shall transmit and submit the revised Pension Payment Order to the respondent No. 5 positively within a period of **one**

week from the date of issuance of the revised Pension Payment Order.

The respondent No. 5 then after taking into account whatever retiral benefit has already been paid to the petitioner and received by the petitioner, shall release the necessary payment by crediting the bank account of the petitioner, to be submitted by the petitioner to the respondent No. 5 but positively within a period of **two weeks** from the date of receiving the revised Pension Payment Order from the respondent No. 2.

Since affidavits has not been called for, the allegations made in this writ petition deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition **W.P.A. 1849 of 2024** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)