

01.10.2024
Court No.2
Sl. No.29
KB

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A 2193 of 2024

Paresh Chandra Ray Eashor
-versus
The State of West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya)
...For the Petitioner.

Mr. Hirak Barman
Mr. Sumit Kumar
Mr. Sandip Guha Roy
...For the State.

1. Leave granted to the advocate on record of the petitioner to implead the BDO, Ketugram II Development Block and the Director of Pension, Provident Fund and Group Insurance as party respondents 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 respondents are represented by the learned advocates.

2. The petitioner is a retired employee of the gram panchayet. He is aggrieved by the order passed by the Additional Secretary to the Government of West Bengal, Panchayet and Rural Development Department on 10th May, 2024 rejecting his prayer to condone the shortfall in his pensionable service period.

3. Learned advocate for the petitioner submits that the petitioner is in no way responsible for the delay in issuance of the appointment letter in his favour.

4. The recruitment process started in the year 1986. Because of series of litigations appointment letter could not be issued in favour of the petitioner despite his name appearing in the list of eligible candidates to be appointed.

5. The petitioner joined the post in the year 2004 and retired from service rendering 9 years 4 months 25 days qualifying service. As the petitioner failed to complete the qualifying service period of 10 years, accordingly, his prayer for grant of pension stood rejected.

6. Prayer has been made to condone the shortfall in the qualifying service period to enable the petitioner to receive pension.

7. A similar issue has been decided by this Court on **5th August, 2024** in **WPA 10763 of 2023** in the matter of ***Bansi Badan Kole versus The state of West Bengal & Ors.***

8. The Court relied upon a decision passed by the Hon'ble Division Bench on 31st October, 2019 in the matter of ***Asim Kumar Chakrabarti vs. The state of West Bengal & Ors. (W.P.S.T. 112 of 2019)*** wherein the Hon'ble Division Bench was pleased to condone the shortfall in the qualifying service period on the ground

that the delay in issuing the appointment letter was not attributable to the employee.

9. In the present case also the petitioner was no way responsible for the delay in issuance of the appointment letter in his favour. Had the appointment letter been issued in usual course of the initiation of the recruitment process in the year 1986, he would be in service long prior to the year 2004 when appointment letter was issued in his favour.

10. The Court in Bansi Badan Kole (supra) observed that not allowing the prayer of the petitioner for condoning the shortfall in his qualifying service period will amount of double jeopardy. Neither the petitioner received his salary for the period he did not work nor will he receive his pension after his retirement for no fault of him. The petitioner ought not to be deprived of his legitimate claim to receive pension.

11. In line with the decisions referred to hereinabove, the impugned order rejecting the prayer of the petitioner seeking condonation of the shortfall in his qualifying service period is set aside.

12. The Block Development Officer, Ketugram-II Development Block, is directed to grant notional benefit to the petitioner by treating him to be in service for the qualifying period of ten years.

13. The aforesaid respondent is directed to proceed by processing 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.

14. 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.

15. The writ petition stands disposed of.

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

(Amrita Sinha, J.)