

01.10.2024
Court No.2
Sl. No.47
KB

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A 2212 of 2024

Santa Bhattacharjee
-versus
The State of West Bengal & Ors.

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

Mr. Nabakumar Paul.
Ms. Pratusha Dutta Chowdhury.
...For the State.

1. The husband of the petitioner was a retired employee of the gram panchayet who expired on 29th December, 2017. The petitioner is aggrieved by the order passed by the Additional Secretary to the Government of West Bengal, Panchayets and Rural Development Department on 10th May, 2024 rejecting her prayer to condone the shortfall in the pensionable service period of her husband.

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

3. The recruitment process started in the year 1986. Because of series of litigations appointment letter could not be issued in favour of the employee in proper time.

4. The employee joined the post in the year 2009 and retired from service rendering 5 years 9 months 12 days qualifying service. As the employee failed to complete the qualifying service period of 10 years, accordingly, the prayer of the widow for grant of pension stood rejected.

5. Prayer has been made to condone the shortfall in the qualifying service period of the employee to enable grant of pension.

6. 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.**

7. 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.

8. In the present case also the employee 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, the employee

would have been in service long prior to the year 2009 when appointment letter was issued in his favour.

9. The Court in Bansi Badan Kole (supra) observed that not allowing the prayer of the employee for condoning the shortfall in his qualifying service period will amount of double jeopardy. Neither the employee 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 employee ought not to be deprived of the legitimate claim to receive pension.

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

11. The Block Development Officer, Md. Bazar Development Block, is directed to grant notional benefit to the husband of the petitioner by treating him to be in service for the qualifying period of ten years.

12. The aforesaid respondent is directed to proceed by processing the pension file of the employee and ensure that the petitioner receives the dues of her deceased husband at the earliest but positively within a period of four months from the date of communication of this order.

13. It is made clear that the employee 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.

14. The writ petition stands disposed of.

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

(Amrita Sinha, J.)