Ct. No.4 D/L 13.06.2025
(Naba) 03

W.P.S.T. 98 of 2025

Sabita Mondal
Vs.
The State of West Bengal & Ors.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee,
Mr. Soumik Dey,
Mr. Saikat Pal
...for the Petitioner

Mr. Tapan Kr. Mukherjee, ld. AGP,
Ms. Iti Dutta
...for the State

1. Heard the learned counsel for the petitioner and the learned counsel for the State.

2. The brief factual basis of the case which is not in dispute is that the petitioner was appointed against a vacancy which occurred on 13.10.2003. The appointment of the petitioner is by an order dated 11.07.2005 issued by the District Land & Land Reforms, Nadia. The petitioner's appointment was a compassionate appointment on account of demise of her husband, Late Jagannath Mondal, in harness. She has retired on 30.04.2015. There is a deficiency of two months and thirteen days in the requisite qualifying service for the purposes of grant of pension.

3. The issue has been raised by the petitioner before the West Bengal Administrative Tribunal (hereinafter referred to as the 'S.A.T.'). The S.A.T. passed an order directing the authorities to

consider the claim of the petitioner. Upon consideration of the petitioner's claim, the prayer for condonation of deficiency was communicated to the petitioner to be rejected by the Finance Department. The communication is dated 18.01.2024. In the circumstances, she moved the S.A.T. again assailing such rejection. O.A. No. 205 of 2024 was filed by the petitioner before the S.A.T.

4. The learned counsel for the petitioner submits that in view of decisions rendered by this Court, the authorities were required to condone the deficiency of two months and thirteen days in view of the provisions contained in Rule 36 of the DCRB Rules, 1971. He further submits that as per the petitioner's appointment order, it is apparent that the petitioner's claim for compassionate appointment was finally allowed on 11.07.2005 by issuance of the order of appointment, though vacancy for such appointment existed much prior thereto i.e. 13.10.2003. For this delay on the part of the respondent authorities, the petitioner cannot be made to suffer. On these grounds the matter was being pursued before the S.A.T., when the S.A.T. was informed that the authorities were reviewing the earlier decision and that the State would be in

a position to intimate the outcome of such review only after the Finance Department returns the matter with their explanation. Such submission of the State is recorded in the order dated 07.01.2025 whereby the matter was adjourned to 21.04.2025.

5. It is submitted by the learned counsel that on 21.04.2025, the S.A.T. has dismissed the petitioner's claim relying upon the outcome of such review by the department which culminated in issuance of a reasoned order dated 05.03.2025 bearing memo no. 647. The learned counsel for the petitioner submits that the said order is unsustainable.

6. The learned AGP on the other hand submits that the rejection order dated 05.03.2025 has not been assailed by the petitioner and therefore, decision of the S.A.T. dated 21.04.2025 impugned in the present proceedings, relying upon such reasoned order cannot be questioned by the petitioner.

7. On consideration of the rival submissions and on going through the records, we find that on the penultimate date when the matter was taken up, the State had made a submission before the S.A.T. that the issue was being considered and that only after the matter was returned by the Finance Department, the State would be in a

position to enlighten the reasons for such rejection by the Finance Department. Thereafter on the very next date i.e. on 21.04.2025, the S.A.T. has rejected the O.A. relying upon the order passed in the interregnum and hardly a month before the last date. It is not apparent from the records that there was any actual service of the reasoned order dated 05.03.2025 upon the petitioner, as no such fact has been recorded by the S.A.T. in the impugned order. Thus it is apparent from the impugned order that the petitioner did not have adequate and sufficient opportunity to put to challenge the reasoned order dated 05.03.2025.

8. We, therefore, allow the petitioner an opportunity to assail the order dated 05.03.2025 bearing memo. No. 647.

9. To facilitate such challenge to the order and reconsideration of the issue by the S.A.T., we set aside the order dated 21.04.2025 passed in O.A. No. 205 of 2024. The petitioner would be required to take steps by filing an appropriate application in this regard in O.A. No. 205 of 2024 expeditiously and preferably within four weeks from date.

10. The Writ Petition being No. W.P.S.T. 98 of 2025 is thus disposed of.

11. There will be no order as to costs.

12. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)