

WPA 14745 of 2017

Nimai Krishna Ghosh

Vs.

The State of West Bengal & Ors.

Ms. Sabita Khutia (Bhunya),

Mr. Krishna Pada Santra,

Ms. Arpita Saha.

... for the petitioner

1. Affidavit-of-service filed in Court today is taken on record.
2. In this case, the petitioner, who is the retired Group-D staff of a recognized school has prayed for relief that the shortfall of the period, which is required for being eligible to pension as per the Rules, may be condoned, thereby allowing him to be eligible and granted with the pensionary benefits.
3. Ms. Sabita Khutia (Bhunya), learned counsel appearing for the petitioner submits that by dint of an order dated February 10, 1982, the petitioner was appointed as a peon of the school, with effect from February 12, 1982.
4. She says that the petitioner has been working there since thereafter, continuously and without any break.
5. It is further submitted that the petitioner's service has been approved by the District Inspector of Schools, Secondary Education, Medinipur vide letter dated May 30, 2000, after recognition of the school with effect from February 18, 2000 and from a date that is, May 1, 2000.

6. She has further submitted that the petitioner has retired from service on May 31, 2009, upon attaining the age of superannuation. By then, the petitioner has completed his service for nine years three months and fourteen days and the period of nine months and seventeen days shortfall has been suffered by him to be eligible for grant of pension.
7. Ms. Sabita Khutia (Bhunya), learned counsel for the petitioner has insisted for an appropriate order to be passed in this case.
8. None appears for the respondent State, in spite of due service of notice. Hence, the matter is taken up for adjudication in absence of the respondent State.
9. There is no material to deny and dispute the facts asserted by the writ petitioner that he has been serving in the school since February 12, 1982 continuously and without any break.
10. Record further reveals that the school has got recognition with effect from February 18, 2000 and the petitioner's service has been approved by D.I. from May 1, 2000.
11. The Court has also noted that the qualifying service period for receiving pension being ten years as per the Rules, the petitioner falls short of the said qualifying service period for nine months and seventeen days, he having already completed nine years three months and fourteen days service period, since after recognition/approval.
12. The service rendered by the writ petitioner continuously and without blemish cannot be avoided

to be taken into consideration, particularly, when the question as to his eligibility to pension arises.

13. A person having rendered diligent service to a school for his entire life should be considered as eligible for pension, for the reason that pension is only meant for that. It is a support provided by the State to its employee, who has devoted his life for service of the State. The petitioner seems to have duly fulfilled the pre-condition of rendering service with unquestionable record. He has stated his journey much prior to the date of his approval in service or recognition of the school. Now, the question remaining that if the writ petitioner would be entitled for the equitable relief of condonation of shortfall in his qualifying service period, to be eligible for pension. Considering his records and the length of the period which has fallen short, the Court does not hesitate to grant him the relief.

14. In view of the facts and circumstances of the case, the Court finds it proper that the shortfall period for which the petitioner is not considered to be eligible for pension, strictly in terms of the Rules, cannot be condoned for the cogent and justifiable reasons as mentioned above.

15. Hence, the Court finds it proper to condone the said period of shortfall of the petitioner of nine months and seventeen days, in view of his past continuous services rendered in the school.

16. Hence, the respondent nos. 4 and 3 are directed to consider the writ petitioner as an eligible person,

having rendered services for the qualifying period, in terms of the Rules, for grant of pension.

- 17.** Let the Pension Payment Order be issued in favour of the writ petitioner in accordance with the last pay drawn by him.
- 18.** The arrear amount shall be disbursed immediately.
- 19.** The entire exercise as above should be concluded by the respondent nos. 4 and 3 within a period of four weeks from the date of communication of copy of this order.
- 20.** Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.
- 21.** With the above observations and directions, the writ petition being No WPA 14745 of 2017 is disposed of, along with the pending applications, if any.
- 22.** Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)