

01.08.2025
Item No.46,ML
Ct.17
A.J.

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

WPA 21270 of 2024

Dhiraj Kumar Bandyopadhyay

-Vs-

The State of West Bengal & Ors.

Mr. Bikram Banerjee,

Mr. Sagar Dey.

.....for the petitioner.

Mr. Swapan Kumar Dutta, Ld. A.G.P.,

Mr. Rajat Dutta.

.....for the State.

Mr. Nilotpal Chatterjee,

Mr. Sourabh Sengupta.

.....for the Calcutta University.

The petitioner was a Research Associate of the Centre for Urban Economic Studies under the University of Calcutta. On attaining the age of his superannuation, he had retired from his said service on March 31, 2016.

The petitioner, *inter alia*, is challenging the communication bearing Memo No. 338-Edn(U)/HED-12016(18)/1/2021-UNV SEC-Dept. of HE dated March 27, 2024 of the Deputy Secretary, Department of Higher Education, Government of West Bengal, the respondent no. 5 herein addressed to the Registrar of the University, the respondent no. 8 herein.

The respondent no. 5, by the said impugned communication, has refused to accede to the proposal of the University for payment of retiral benefits to the petitioner on the ground of shortfall in his qualifying service.

Mr. Bikram Banerjee, learned advocate for the petitioner submits that the petitioner was temporarily appointed on March 18, 2002 for five years and he worked as such till March 17, 2007, on expiry of the said period, such appointment

was renewed and ultimately, on January 01, 2008, the appointment of the petitioner was regularized.

Mr. Banerjee further submits that in terms of paragraph 6(c) of the West Bengal State-Aided Universities (Death-cum-Retirement Benefit) Scheme, 1999, the temporary service of the petitioner is to be reckoned to calculate the length of his qualifying service.

Mr. Swapan Kumar Dutta, learned A.G.P, submits that the petitioner had served the University in a substantive post *only* for the period from January 01, 2008 till March 31, 2016, which falls short of 10 years, as such the petitioner is not entitled to pension or other retiral benefits.

Heard learned advocate for the parties, perused the materials-on-record.

The petitioner had served the University in an approved post but temporarily, the tenure of such service, if is taken into account, there would be no shortfall in the qualifying service of the petitioner to get the retiral benefits, including pension.

The paragraph 6(c) of the aforementioned Scheme, 1999 prescribes that the approved temporary service, including approved service on leave or deputation vacancy in one or more Universities or Colleges is required to be counted towards pension, subject to fulfillment of other conditions for grant of pension. The said paragraph of the said Scheme, 1999 is quoted below for ready reference: -

“6. Service qualifying the pension :

a)

b)

c) Approved temporary service including approved service on leave or deputation vacancy in one or more Universities or colleges shall count towards pension subject to fulfillment of all other conditions for grant of pension.

.....”

The length of the service of the petitioner therefore, is required to be calculated from the date of his initial temporary appointment and if it is so calculated, his qualifying service would be more than 14 years.

The denial to provide retiral benefits, including pension, to the petitioner, therefore is not justified, accordingly, the impugned communication dated March 27, 2024 is set aside.

The University is directed to prepare pension papers of the petitioner immediately, preferably **within a period of six weeks from the date of communication of this order** and to send the same to the concerned authority of the Higher Education Department, Government of West Bengal, for release of all retiral benefits in favour of the petitioner, if not already done.

The petitioner is granted liberty to pray for interest for the delay in disbursement of his retiral benefits.

WPA 21270 of 2024 is disposed of with the above terms and observations. There shall, however, be no order as to costs.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)