

Sl.7  
04.04.2025  
Court No.2  
BP

**Calcutta High Court  
In the Circuit Bench at Jalpaiguri  
Appellate Side**

WPA 636 of 2025

Buddha Singh Lama  
-versus-  
The State of West Bengal & Ors.

Mr. Debajit Kundu  
..for the petitioner

Mr. Nabankur Paul  
..for the State

Affidavit of service filed in Court today is taken on record.

The petitioner claims to have participated in the selection process initiated by the District School Board, Darjeeling and was called to appear at the written examination which was scheduled to be held on 17<sup>th</sup> February, 2002. The petitioner appeared in the said written examination and had to wait for a substantial period for being appointed to the post of primary teacher. The petitioner was ultimately appointed to the post of primary teacher on February 18, 2013 and joined the said post on March 5, 2013. The petitioner retired from service on September 30, 2022 upon attaining the age of superannuation after rendering a service of about nine years six months and twenty five days. Since there was a shortfall of qualifying service

the petitioner was not extended the pensionary benefits. The petitioner submitted a representation praying for sanctioning the pension after condoning the shortfall in the qualifying service.

Learned advocate appearing for the petitioner places reliance upon a Government Order dated February 2, 2009 on the subject calculation of the length of qualifying service for retirement benefits and modification of the West Bengal Recognised Non-Government Educational Institution Employees (Death-cum-Retirement Benefit) Scheme, 1981 and submits that the Governor has been pleased to decide that the fraction of a year equal to three months and above shall be treated as completed six monthly period of service and reckoned as qualifying service for determining the retirement benefit and the period of service below three months will be ignored.

He further submits that the Co-ordinate Bench in identical cases held that the shortfall in qualifying service period is liable to be condoned if the delay in issuing the appointment letter is not attributable to the employee.

Heard Mr. Paul, learned advocate appearing for the State on such submission.

Record reveals that the petitioner was called to participate in the written examination to be held on February 17, 2002 and it is not in dispute that the

petitioner participated in the said examination. However, the petitioner was appointed vide appointment letter dated 18<sup>th</sup> February, 2013 and he joined the service on March 5, 2013.

After going through the records this Court finds that the appointment letter was issued after lapse of considerable period from the date of examination.

The reasons for the delay cannot be attributed to the petitioner. Therefore, the petitioner cannot be deprived of the pensionary benefits.

To the mind of this Court, the petitioner should be treated to have completed the qualifying period of ten years notionally only for the purpose of extending the pensionary benefits.

In view thereof, this Court is of the considered view that the petitioner cannot be deprived from the benefits of the pension on the ground that there is a marginal shortfall in the qualifying service reasons for which cannot be attributed to the petitioner. The Co-ordinate Bench in WPA 20651 of 2024 in the case of Nakul Chandra Das Vs. The State of West Bengal & Ors. order dated August 20, 2024 in a more or less identical case held that the shortfall of qualifying service period is liable to be condoned if the delay in issuing the appointment letter is not attributable to the employee.

This Court has already held that the shortfall in the qualifying service period cannot be attributed to the petitioner/employee and for such reason this Court holds that such shortfall should be condoned and the pensionary benefits should be extended to the petitioner. It is, however, made clear that the petitioner will not be entitled to any arrear salary for the period during which he has not rendered any service.

WPA 636 of 2025 is disposed of with the following directions:

1. The District Inspector of Schools (P.E.) Darjeeling is directed to grant notional benefit to the petitioner by treating him to be service for the qualifying period of ten years.
2. The District Inspector of Schools (P.E.), Darjeeling is directed to process the pension file of the petitioner and to ensure that the pension is released in favour of the petitioner as expeditiously as possible but positively within a period of twelve weeks from the date of receipt of a server copy of this order along with the copy of the representation dated 9<sup>th</sup> December, 2024.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties

expeditiously on compliance of usual legal formalities.

**(Hiranmay Bhattacharyya, J.)**