06.10.2026
Sl. No.61
Ct. No.14
gd

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA/15029/2026
Smt. Smriti Chakraborty
VS
The State of West Bengal and Ors.

Ms. Bipasha Bhattacharyya
...for the Petitioner.
Ms. Mary Datta
Ms. Sneha Chatterjee
...for the State.
Mr. Madhu Jana
Ms. Puja Sonkar
Mr. Probodh Chakraborty
...for DPSC, Howrah.

1. Report filed by the State furnished by District Inspector of Schools (Primary Education), Howrah dated 10th September, 2026 is taken on record. Copy served.

2. Report filed by the Chairman, District Primary School Council, Howrah dated 5th October, 2026 is also taken on record. Copy served.

3. By the present writ petition the petitioner seeks direction upon the respondent authorities to release the pension in favour of the petitioner by condoning the shortfall of service.

4. The petitioner contends that she participated in the recruitment process of the year 2009 in the district of Howrah. Since the appointment of the petitioner to the Post of Primary School Teachers in connection with 2009 recruitment process was not approved, the petitioner along with other candidates were compelled

to file a writ petition being W.P. No.27912 (W) of 2014. The aforesaid writ petition was disposed of on 27th January, 2015 directing the Commissioner of School Education to grant approval for appointment in favour of all the petitioners. Since the order of the court was not complied with, the petitioner filed a contempt application being CPAN 2110 of 2015, subsequently renumbered as WPCRC 63 of 2016. The appointment letter was issued on 4th May, 2016. The petitioner joined in Sree Saradadevi Girls Primary School under Bally West Circle, District-Howrah as Assistant Primary Teacher on 9th May, 2016. Due to such delay in issuance of the appointment letter there is shortfall of two months and ten days of qualifying service. The petitioner seeks for condonation of such shortfall. Hence this writ petition.

5. Ms. Bipasha Bhattacharyya, learned advocate appearing for the petitioner submits that as per Rule 7(e)(iv) of the West Bengal Non-Government Educational Institution Employees (Death-cum-Retirement Benefit) Schemes, 1981 *(in short 'DCRB Scheme')* respondent authorities can condone a deficiency upto six months in the qualifying service of the employees. Therefore, there is no impediment in allowing the petitioner's prayer for condonation of shortfall.

6. On the contrary, Ms. Mary Datta, learned advocate for the State submits that since the petitioner has not

completed ten years of qualifying service, she is not entitled to pension.

7. Ms. Puja Sonkar, learned advocate representing Howrah District Primary School Council submits that the Council is not the authority to condone such shortfall and it is for the Secretary, Department of School Education to take a decision on such prayer of the petitioner for condonation of shortfall.

8. Undeniably the shortfall of service is of two months and ten days.

9. Rule 7(e)(iv) of DCRB Scheme provides as hereunder:

> *"(iv) Upon any condition which it may think fit to impose, Government may condone a deficiency of six months in the qualifying service of the employees of non-Government/Sponsored/Aided Educational Institutions /Organisations.*
>
> *Note : The deficiency should not be condoned with a view to make up the minimum prescribed qualifying service for the purpose of death gratuity or family pension. In other cases power should be restricted to the employees drawing pay not exceeding Rs. 425.00 per month at the time of retirement on invalid or compensation pension."*

10. Upon bare reading of the aforesaid Rule, it manifest that the Government has the authority to condone a deficiency in the qualifying service of employees of non-Government/ Sponsored/Aided Educational Institutions/ Organisations upto six months.

11. It is found that no representation has been made by the petitioner before the authority concerned seeking for condonation of such shortfall.

12. Accordingly, liberty is granted to the petitioner to submit a comprehensive representation before the respondent no.2, the Secretary, Department of School Education for condonation of shortfall of service of two months and ten days within a period of four

weeks. Upon submission of such comprehensive representation within the stipulated period, respondent no.2, the Secretary, Department of School Education will consider the same in terms of the existing Rules under DCRB Scheme and dispose of the same by passing a reasoned order in accordance with law upon notice to the petitioner within a period of four weeks from date of submission of representation.

13. The reasoned order shall be communicated to the petitioner within one week from the date of passing of such reasoned order.

14. Learned advocate for the petitioner is directed to communicate this order to the respondent no.2, the Secretary, Department of School Education for necessary action.

15. With the above direction, the writ petition being **WPA 15029 of 2026** stands disposed of.

16. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

17. Interim order, if any, stands vacated.

18. All connected applications, if any, stand disposed of.

19. There shall be no order as to costs.

20. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

21. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)