

24.03.2026
Sl. No.8
Ct. No.14
ss

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

W.P.A. No. 22277 of 2024

**Soumendra Nath Mondal
Versus
The State of West Bengal & Ors.**

Mr. Anjan Bhattacharya
Ms. Anita Shaw

...for the petitioner

Mr. Swapan Banerjee
Mr. Diptendu Narayan Banerjee

.... for the State

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. By the present writ petition the petitioner seeks for setting aside of the order dated 15th December, 2016 passed by the Secretary, School Education Department, Law Branch, Government of West Bengal, rejecting the prayer of the petitioner for condonation of shortfall in qualifying service for getting pension.
3. The petitioner contends that he joined the service as a Primary Teacher on 2nd March, 2010 at Rajballavpur Rangilabad FP School at Magrahat (West) Circle, under District Primary School Council, South 24-Parganas. The petitioner was confirmed in service on 2nd March, 2012. The petitioner retired from service on 3rd April, 2019. The petitioner has a qualifying service of 9 years 2 months and 1 day. The petitioner has not been granted pension since he has not completed 10 years of qualifying service as an

Assistant Teacher. Due to laches on the part of the appointing authority in granting appointment belatedly the petitioner could not complete his qualifying service. Previously, the petitioner raised his grievance by filing a writ petition being WPA 14871 of 2016. The aforesaid writ petition was disposed of on 24th August, 2016 by directing the concerned authority to consider the grievance of the petitioner. Pursuant to such order the Secretary, School Education Department, Government of West Bengal has rejected the prayer of the petitioner on 15th December, 2016. Challenging such order and for releasing the pension in his favour from the date of his retirement, the present writ petition has been preferred by the petitioner.

4. Mr. Anjan Bhattacharya, learned Advocate appearing on behalf of the petitioner submits that the appointment of the petitioner was granted only after the petitioner moved the Hon'ble Court and for such reason there is shortfall in qualifying service of 10 years required for grant of pension. Relying on the decision of the Coordinate Bench of this Hon'ble Court in *WPA 19799 of 2024 (Khandakar Fazlul Karim Vs. The State of West Bengal & ors.)* as well as order passed in appeal being *MAT 405 of 2025*, he submits that such shortfall in qualifying service may be condoned.
5. On the contrary, Mr. Swapan Banerjee, learned Advocate appearing on behalf of the State-

respondents submits that the order has been passed in the year 2016. The petitioner has not objected to such order till filing of this writ petition. Accordingly, the writ petition is liable to be dismissed.

6. In reply, Mr. Bhattacharya, learned Advocate for the petitioner submits that since the petitioner was in service he could not raise his grievance at that point of time and only after his retirement he proceeded to challenge such order by way of the present writ petition.
7. It is found that while in service the petitioner filed a writ petition being WPA 14871 of 2016 raising similar grievance that the petitioner will not be entitle to pension as his qualifying service would be less than 10 years. The matter was relegated to the appropriate authority to consider the grievance of the petitioner. Pursuant to such order passed by a Coordinate Bench of this Court, on 15th December, 2016 the Secretary, School Education Department Government of West Bengal has passed the following order :

“5. Having considered his representation dated 29.09.2016 and his submission at the time of hearing, this is to state that –

(a)As per Para 8 of the West Bengal Recognized Non-Government Educational Institutions (Death-Cum-Retirement Benefits) Scheme, 1981, it requires at least 10 years for entitlement of superannuation pension.

(b)As per Para 7 (e)(iv) of Chapter III of the West Bengal Recognized Non-Government Aided Educational Institution Employees (Death-cum-Retirement Benefits) Scheme, 1981 there is a provision for condonation of shortfall in qualifying service for 6 month subject to certain conditions which is set out as follows:

Upon any condition which it may think fit to impose, the Government may condone a deficiency

of six months in the qualifying service of the employees of Non-Government/Sponsored/Aided Educational Institutions/Organizations.

The explanatory note of the aforesaid Para 7(e)(IV) of the said Scheme is also set out below:-

The deficiency should not be condoned with a view to make up the minimum 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/- per month at the time of retirement on invalid or compensation pension.

As per above provision, only 6 months may be allowed in case of those employees drawing pay not exceeding Rs.425/- per month at the time of retirement on invalid or compensation pension.

In the instant case, the claim of the petitioner is absurd as he is yet to retire from service. The claim for pension arises on satisfactory completion of service. Here, the cause of action for the retirement benefits claim has not yet arisen since he is in service. However, as per existing policy of the State Government, an employee when retires with less than 10 years qualifying is not entitled to superannuation pension.

6. Thus, no relief can be given to the petitioner. The matter is disposed of. All concerned be informed accordingly."

8. It is found from the said order that the copy of the order has been forwarded to the petitioner. The petitioner did not choose to challenge the said order till filing of the instant writ petition on 2nd September, 2024. The petitioner has retired on 3rd April, 2019. There is unexplained inordinate delay in challenging the impugned order. Hence, the writ petition falls short of merit.
9. Accordingly, the writ petition being **WPA 22277 of 2024** stands dismissed.
10. Interim order, if any, stands vacated.
11. All connected applications, if any, stand disposed of.

12. There shall be no order as to costs.
13. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
14. 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.)