

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Chaitali Chatterjee (Das)

M.A.T. 117 of 2025

The State of West Bengal & Ors.

Vs.

Dilip Kumar Barua

With

CAN 1 of 2025

CAN 2 of 2025

For the Appellants in

**: Mr. Subir Kumar Saha
Mr. Sumit Kumar**

**For the Private respondent/
Writ petitioner**

: Ms. Sabita Khutia

Heard & Judgment on

: January 6, 2026

Debangsu Basak, J.:-

1. CAN 1 of 2025 is an application seeking condonation of delay.
2. Department reports a delay 418 days in making and filing the appeal.

3. Learned advocate appearing for the private respondent/writ petitioner submits that, the private respondent does not object to the condonation of delay as prayed for.
4. In view of the stand taken by the private respondent and for the ends of justice, we deem it appropriate to condone the delay in making and filing the appeal.
5. CAN 1 of 2025 is, therefore, allowed.
6. Appeal is taken up for final hearing.
7. Appeal is directed against an order dated October 1, 2024 passed in W.P.A. 2211 of 2024.
8. By the impugned order, learned Single Judge disposed of a writ petition on the basis of the decision of the learned Single Judge dated October 1, 2024 passed in W.P.A. 2193 of 2024 (Paresh Chandra Roy Eashor vs. The State of West Bengal & Ors.).
9. The private respondent as the writ petitioner approached the Writ court for grant of pensionary benefits after condoning the deficiency in the period of qualifying service.
10. Materials made available to us establish that the private respondent/writ petitioner is similarly situate and circumstanced as that of the writ petitioner of Paresh Chandra Roy Eashor (supra).

11. Learned Single Judge in Paresh Chandra Roy Eashor (supra) allowed the writ petition and directed the authorities to grant pensionry benefits. Appeal carried therefrom before the Division Bench was disposed of by an order dated April 10, 2025 passed in M.A.T. 10 of 2025.

12. The Coordinate Bench in M.A.T. 10 of 2025 dismissed the appeal of the appellants. The Coordinate Bench held as follows:-

“20. Therefore, we are of the considered opinion that the petitioner is not to be blamed to any extent for the delayed issuance of appointment letter. Hence, his prayer for condonation of the shortfall in pensionable service period deserved to be allowed. Not allowing such prayer of the petitioner will be causing him double jeopardy as has been observed rightly by the learned Single Judge. The State, which professes to be a welfare State, should take a reasonable stand in the interest of the citizens.

21. We see no apparent infirmity in the judgment and order sought to be assailed by us. Consequently, this appeal being M.A.T 10 of 2025, fails and the same is hereby by dismissed along with the c”

13. Learned advocate appearing for the appellants submits that the decision rendered by the Coordinate Bench in M.A.T. 10 of 2025 if directed to be implemented in the facts and circumstances of the

present case would be contrary to the Death Cum Retirement Benefit Scheme of 1985. He submits that the deficiency in the qualifying period of service cannot be condoned beyond six months which the Coordinate Bench in M.A.T. 10 of 2025 did. He further submits that since the decision of the Coordinate Bench is contrary to the Scheme of 1985, the same is not binding upon this Bench and that in any event such an issue should be referred to a larger Bench.

14. In the facts and circumstances of the present case, the private respondent/writ petitioner is similarly situate and circumstanced as that of the writ petitioner in W.P.A. 2193 of 2024, namely Paresh Chandra Roy Eashor (supra). The appellants before us did not assail the decision of the Coordinate Bench dated April 10, 2025 rendered in M.A.T. 10 of 2025. Rather they acted in terms therewith and extended the pensionary benefits to such writ petitioner therein.

15. As an Article 12 authority, the appellants cannot be permitted to take different stand and apply different yardstick with regard to similarly situate and circumstanced writ petitioner as that of Paresh Chandra Roy Eashor (supra). As private respondent/writ petitioner before us is similarly situate and circumstanced as that of the writ petitioner in Paresh Chandra Roy Eashor (supra) and as

the decision of the Coordinate Bench is binding on us, we are not minded to accept the contentions of the appellants. Nothing is placed before us to suggest, let alone establish that the writ petitioner is not similarly situate and circumstanced as that of the writ petitioner in Paresh Chandra Roy Eashor (supra).

16. We enquired of the appellants as to whether any Special Leave Petition was filed assailing the order dated April 10, 2025 passed in M.A.T. 10 of 2025, learned advocate appearing for the appellants on instructions submits that, no Special Leave Petition was filed.
17. Thereafter, we enquired of the appellants as to whether the pensionary benefits were extended to the writ petitioner in Paresh Chandra Roy Eashor (supra) or not, learned advocate appearing for the appellants on instruction submits that, such pensionary benefits were extended.
18. As noted by us the private respondent/writ petitioner before us is similarly situate and circumstanced that of the writ petitioner in Paresh Chandra Roy Eashor (supra).
19. Since the appellants accepted the decision in Paresh Chandra Roy Eashor (supra) and upheld by the Coordinate Bench in M.A.T. 10 of 2025 and extended the pensionary benefits to the writ petitioner therein and since the private respondent/writ petitioner before us stands on the same footing as that of the writ petitioner of Paresh

Chandra Roy Eashor (supra), we find no reason as to why similar relief be not extended to the private respondent/writ petitioner herein.

20. In such view, we find no ground to interfere with the order impugned before us.

21. **M.A.T. 117 of 2025** and the application being **CAN 2 of 2025** are disposed of without any order as to costs.

(Debangsu Basak, J.)

22. I agree

S.D.

[Chatali Chatterjee (Das), J.]