

27th Jan., 2026
Item no.D/L 30
Court No. 18
Pradip, A.R.(Ct.)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 9612 of 2022**

In the matter of :

Tanmoy Mandal

.... Petitioner

VS.

The State of West Bengal & Ors.

....Respondents

For the Petitioner:

Mr. Saibal Acharya
Mr. Arka Bhattacharya

....Advocates

For the Respondent nos. 2-4:

Mr. Basabjit Banerjee
Mr. Adityajit Abel Bose

....Advocates

1. The petitioner's prayer for grant of notional benefits on and from the date the other similarly placed teacher were given benefit, that is, with effect from 1st November, 2012 has been rejected by the employer on the ground that the petitioner did not serve the employer at the material point of time.
2. Records reveal that the petitioner participated in the recruitment process initiated by the employer vide advertisement dated 22nd February, 2011. The petitioner applied in response to the advertisement but he was found ineligible for appointment.
3. Challenging the stand of the employer, the petitioner filed a writ petition being WP 3962 (W) of 2014 which stood disposed of vide order dated 29th January, 2016 wherein the Court directed the employer to issue letter of appointment in favour of the petitioner.

4. The employer has issued appointment letter in favour of the petitioner in July, 2016.
5. The petitioner prays for notional benefit. It has been submitted that the petitioner was no way responsible for the delay in issuance of the appointment letter in his favour. The act of the authority in not finding the petitioner eligible for appointment stood set aside by the Court.
6. Learned advocate representing the employer opposes the prayer of the petitioner.
7. It has been submitted that the appointment letter has been issued in favour of the petitioner in compliance of the direction passed by the Court on 29th January, 2016.
8. The issue as to whether notional benefit can be granted in favour of the petitioner who was not responsible for the delay in issuance of the appointment letter has been decided by the Court in several matters. The consistent view of the Court is that if the candidate is no way responsible for the delay in issuance of the appointment letter, then notional benefit may be granted in favour of the candidate.
9. In the instant case, it appears that there is nothing on record to suggest that the petitioner was in any way responsible for the delay in issuance of the letter of appointment. On the contrary, the petitioner had to approach this Court in the year 2014 challenging the action of the employer in not issuing the appointment letter in his favour.
10. The Court heard the submissions made on behalf of both the parties and thereafter passed order in favour of the petitioner

directing the employer to issue the letter of appointment. The same implies that had the employer acted in a fair and proper manner, then the appointment letter could have been issued in favour of the petitioner in the year 2011 itself.

11. The Hon'ble Division Bench of this Court on 31st October, 2019 in the matter of ***Asim Kumar Chakrabarti vs. The State of West Bengal & Ors. (W.P.S.T. 112 of 2019)*** was pleased to condone the shortfall in the qualifying service period on the ground that the delay in issuing the appointment letter was not attributable to the employee.
12. In view of the above, the Court is of the opinion that in the facts and circumstances of the instant case, the petitioner ought to be allowed the notional benefit including the benefit of seniority, however, the petitioner will not be entitled to any salary for the period that he did not served.
13. The notional benefit shall be allowed only for counting his seniority and for calculating his terminal dues.
14. The writ petition stands disposed of.
15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)