

S/L 26
11.08.2026
Court No.04
B.K.N

W.P.S.T. 122 of 2026

Ajoy Sarkar

Vs.

The State of West Bengal & Ors.

*Mr. K. K. Chakraborty,
Mr. Kashinath Bhattacharya,
Mr. Gopal Kishore Sarkar*

...for the Petitioner.

*Mr. Chandra Sekhar Bag,
Ms. Suva Gayen*

...for the State.

1. Heard the learned advocate for the writ petitioner/applicant.
2. The writ petitioner's joining as a Cashier-cum-Lower Division Clerk under the Directorate of Social Welfare, according to the writ petitioner was delayed by authorities by about two decades. He is seeking a direction that seniority and other notional benefits should be granted for the entire period. He approached the West Bengal Administrative Tribunal (for short 'Tribunal') for such relief. The Tribunal being non functional for want of a member, he complaints that he is left remedy less. Relying on decision of the Hon'ble Apex Court in the case of ***Roger Mathew –Vs.- South Indian Bank Limited represented by its Chief Manager and Others*** reported in ***(2020) 6 SCC 1*** he is invoking writ jurisdiction. It is under such circumstance we have proceeded to consider the writ petitioner's claim.

3. The issue, nonetheless, remains whether the petitioner's approach to the Tribunal was after exhausting other remedies; and within the limitation specified in Section 20 and 21 of the Administrative Tribunals Act, 1985.
4. The last representation filed by the writ petitioner on record is 3rd February, 2023. Thereafter it appears that the petitioner filed an Original Application bearing O.A. No. 117 of 2023 which Original Application was withdrawn with liberty.
5. About two years thereafter the present Original Application bearing O.A. No. 309 of 2025 was filed. The learned advocate for the writ petitioner submits that several representations were filed.
6. Even if we allow the petitioner to rely upon his last representation dated 3rd February, 2023, on which no final order was passed. The period of limitation is required to be determined with reference to Section 20(2)(b) read with Section 21(b) of the Administrative Tribunals Act, 1985 (for short 'Act'). Section 20(2)(b) reads:

“20. Applications not to be admitted unless other remedies exhausted.-

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.”

7. Section 21(1)(b) reads:

“21. Limitation.-(1) *A Tribunal shall not admit an application,-*

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.”

8. Sub-Section 3 of Section 21 contemplates condonation of a delay subject to satisfaction of the Tribunal, upon consideration being accorded to an application made in this regard. The learned advocate for the writ petitioner did not point out that any application was filed before the Tribunal seeking a condonation under Section 21(3) of the Act.

9. Under these circumstances, on a harmonious consideration of the two provisions, extracted above, the petitioner’s application before the Tribunal was out of time available to the petitioner as a conjoint reading of the two provisions, extracted above. The petitioner also made no application for condonation of the delay. Therefore, there was no occasion for the Tribunal, even if functional to assume jurisdiction to consider the plea raised by the petitioner before the Tribunal.

10. Such being the circumstances and a statutory bar of limitation operating against the writ petitioner in the pending proceeding before the Tribunal, we do not consider it a fit case to exercise our extraordinary and discretionary jurisdiction under Article 226 of the Constitution of India in favour of the writ petitioner.

11. The learned advocate prays for a liberty to file his application for condonation as and when the Tribunal becomes functional.
12. The writ petition is dismissed with such liberty.
13. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Partha Pratim Roy, J.)