

S/L 8
08.01.2025
Court. No. 3
Sourav

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

WPA 2704 of 2024

**Sandipan Ghosh
Vs.
The State of West Bengal & Ors.**

Mr. Uday Sankar Sarkar

...for the petitioner.

*Mr. Nabankur Paul
Mr. Pradip Sarkar*

...for the State.

Ms. Supriya Dubey

...for WBCSSC.

1. The affidavit-of-service as filed in Court today on behalf of the petitioner is taken on record.
2. This Court has heard learned advocate for the writ petitioner, learned advocate for the respondents/State and its functionaries and learned advocate for the respondent nos. 4 and 5 i.e., the West Bengal School Service Commission, Northern Region and its functionaries at length.
3. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ upon the respondents/authorities, more specifically, upon the respondent no. 3 to grant consequential/notional benefits to the writ petitioner including the salary for the period for which he was allegedly illegally prevented to get his appointment including increments, fixations and other benefits.
4. In support of the instant writ petition, learned advocate for the writ petitioner at the very outset

draws attention of this Court to the Page Nos. 46 and 47 of the instant writ petition being Annexure 15 which is a copy of the reasoned order dated 28.10.2024 as passed by the Commissioner of School Education, West Bengal, i.e., the respondent no. 2 herein.

5. On perusal of the reasoned order, it reveals that the respondent no. 2 had practically admitted that on account of their mistake in preparing the panel, a delay occurred in giving appointment letter to the writ petitioner and ultimately, on 03.04.2017, the writ petitioner received the appointment letter and he joined service on 02.05.2017 (wrongly typed as '1917') though the selection test was held in July, 2012. By the same reasoned order, however, the said Commissioner declined to grant notional benefits to the writ petitioner with effect from the date when the relevant panel was given effect to.
6. In course of his submission, Mr. Sarkar, learned advocate appearing on behalf of the writ petitioner places his reliance upon a judgment and order dated 11.07.2024 as passed by a co-ordinate Bench of this Court in WPA 27622 of 2023 (*Animesh Karmakar Vs. The State of West Bengal & Ors.*). It is contended by Mr. Sarkar that from the said judgment of *Animesh Karmakar (supra)*, it would reveal that it is the consistent stand of different co-ordinate Benches of this Hon'ble Court that in case of delay in issuing

the appointment of a writ petitioner, the writ petitioner is entitled to get notional benefits at least in respect of increments and revision of pay and considering the length of service i.e., seniority. It is thus submitted by Mr. Sarkar that the same benefit may be extended to the writ petitioner while disposing the instant writ petition.

7. Per contra, learned advocate appearing on behalf of the respondents/State as well as the respondent nos. 4 and 5 strenuously argued that in the last but one paragraph of the said reasoned order dated 28.10.2024, it has been specifically mentioned that in absence of any specific G.O. and/or policy of the government, there is no scope to grant notional benefit to the writ petitioner as wrongly claimed.
8. On perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears that while passing the impugned order, the Commissioner of School Education had practically admitted that a delay occurred in giving the appointment letter to the writ petitioner for no fault of the writ petitioner but on account of mistake on the part of the School Service Commission.
9. Such being the position, this Court has got no doubt that the writ petitioner cannot be held to be responsible for getting delayed appointment though the successful candidates of the relevant recruitment

process got appointment earlier. As rightly argued by Mr. Sarkar, learned advocate for the writ petitioner that in the reported decision of *Animesh Karmakar (supra)*, it has been held by a co-ordinate Bench that in such a case the service of the writ petitioner should be considered notionally from the date of giving appointment to the other successful candidates in respect of the self-same recruitment examination.

10. In view of such while disposing the instant writ petition, this Court directs the respondent no. 3, i.e., the District Inspect of Schools (S.E.), Jalpaiguri to give notional benefits to the writ petitioner in respect of the length of service, in respect of increment as well as revision of pay. It is, however, made clear that the writ petitioner is not entitled to any arrear salary for the period for which he did not work i.e., prior to his appointment.
11. The respondent no. 3 is directed to calculate the arrears within a month from today and to disburse the same to the writ petitioner in six installments and such installments are to be paid along with the monthly salary commencing from July, 2025 till its liquidation.
12. With the aforementioned observations, the instant writ petition being **WPA 2704 of 2024** is thus disposed of.

13. Learned advocate appearing on behalf of the respondents/State is hereby requested to communicate the server copy of this order to the respondent no. 3 forthwith.
14. The respondent no. 3 is directed to act on the server copy of this order.
15. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)