

(2013) 01 CAL CK 0085

In the Calcutta High Court

Case No : M.A.T. No. 1939 of 2012 with C.A.N. No. 841 of 2013 with C.A.N. No. 11412 of 2012

Narayan Chandra Das

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 31-01-2013

Acts Referred:

Citation : (2013) 2 CHN 440

Hon'ble Judges : Pranab Kumar Chattopadhyay, J;Dipak Saha Ray, J

Bench : Division Bench

Advocate : Ekramul Bari and Syed Mansur Ali, for the Appellant;Ashok Kumar Chakraborty and Manas Kumar Sadhu, for the Respondent

Final Decision : Allowed

Judgement

Re: C.A.N. 841 of 2013

1. This application has been filed for condoning the delay in preferring the appeal. Having heard the learned Counsel appearing for the parties and considering the averments made in this application, we are satisfied that sufficient reasons have been furnished and adequate grounds have been mentioned for condoning the delay in preferring the appeal.
2. Therefore, delay in preferring the appeal is condoned.
3. Let the appeal be registered, if the same is otherwise in form.
4. This application, therefore, stands allowed.
5. There will be no order as to costs.

Re: C.A.N. 11412 of 2012

6. This application has been filed challenging the order dated 12th October, 2012 passed by a learned Judge of this Court whereby and whereunder the said learned Judge even after allowing the writ petition referred the matter back to

the District Inspector of Schools (SE), Purulia for considering the matter afresh.

7. Going through the records we find that the appellant-petitioner herein claimed incremental benefits for acquiring Ph.D degree which was initially allowed to the said appellant-petitioner by the Additional District Inspector of Schools (SE), Sadar Sub-Division, Purulia on 6th July, 2012. Subsequently, by another office order dated 11th July, 2012, said additional increments for Ph.D degree granted in favour of the appellant-petitioner herein was cancelled on the ground that the convocation was held after 18th August, 2005 i.e. after the cut-off date in terms of the circular dated 5th January, 2012.

8. For improving the qualification by acquisition of Ph.D degree in the relevant subject, a candidate is entitled to get two additional increments from the date of convocation on which such degree was awarded. The aforesaid benefit was extended upto 18th August, 2005 in terms of Rule 12(5) under ROPA 1998 and thus, the respondent authorities fixed 18th August, 2005 as the cut-off date.

9. In the present case, the convocation was held on 2nd April, 2009 i.e. after the aforesaid cut-off date in terms of the Government Order dated 5th January, 2012.

10. A learned Judge of this Court while deciding the writ petition being W.P. No. 4532(W) of 2012 passed an order on 4th July, 2012 quashing the ban imposed on the ground of incremental benefits to the teachers acquiring Ph.D degree after 18th August, 2005 by quashing the order dated 5th January, 2012. The relevant extracts from the aforesaid order dated 4th July, 2012 passed by a learned Judge of this Court in W.P. No. 4532(W) of 2012 are set out hereunder:

Thus, by following the principle laid down by the Punjab & Haryana High Court in the said decision, this Court has no hesitation to hold that the classification which was been made by the Government between the teachers, acquiring Ph.D Degree after 18th August, 2005 is also arbitrary and irrational inasmuch as, such classification has no nexus with the object to be achieved. As such, the Government Order dated 5th January, 2012 whereby ban was imposed on the grant of incremental benefits to the teachers acquiring Ph.D degree after 18th August, 2005 cannot be retained on record. The said Government order dated 5th January, 2012 is, thus quashed.

11. On the earlier occasion, identical issue was considered by the Division Bench of this Court in the appeal being M.A.T. 802 of 2012 with C.A.N. 4949 of 2012. The Division Bench of this Court while deciding the aforesaid appeal affirmed the aforesaid decision of the learned Single Judge passed on 4th July, 2012 in W.P. No. 4532(W) of 2012.

12. It may also be mentioned herein that the directions passed by the learned Single Judge in W.P. No. 4532(W) of 2012 have already been complied with by the State Government and no appeal was preferred from the said judgment and order dated 4th July, 2012 as a result whereof, the said judgment and order dated 4th July, 2012 passed by the learned Single Judge became final.

13. In the aforesaid circumstances, we do not find any reason for sending the matter back once again to the District Inspector of Schools concerned for fresh consideration.

14. We, therefore, direct the District Inspector of Schools (SE), Purulia to grant two additional increments to the appellant-petitioner herein for acquiring Ph.D degree in the relevant subject with effect from the date when such degree was awarded in the convocation i.e. with effect from 2nd April, 2009.

15. The respondent authorities are directed to release the admissible financial benefits in this regard to the appellant-petitioner herein within a period of six weeks from the date of communication of this order.

16. With the aforesaid directions, we modify the impugned order under appeal passed by the learned Single Judge and dispose of both the application as well as the appeal upon treating the said appeal as on day's list.

17. In the facts of the present case, there will be no order as to costs. Let a xerox plain copy of this order duly countersigned by the Assistant Registrar (Court) be given to the learned Advocates of both the parties on usual undertaking.