

Sl. No.20
06.04.2026
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Ct 05

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION

WPA 520 of 2026

Uden Sherpa
Versus
The State of West Bengal & Ors.

Mr. Deborshi Dhar
Ms. Taniya Bhowmik

... For the petitioner

Mr. Subir Kumar Saha
Mr. Sumit Kumar

... For the respondents

1. Affidavit of service filed in Court today be taken on record.
2. The present writ petition has been filed, inter alia, praying for direction upon the respondent no.3 to accord approval to the appointment of the petitioner notionally from the date of empanelment and declare the post in question permanently vacant from the date of advertisement by the School Service Commission for appointment of teaching staff in hill region.
3. The petitioner claims to have participated in a recruitment process initiated in the year 1998 and the examination was held in the year 2000. The petitioner was successful in the selection test and was duly empanelled for the teaching post but letter of appointment was not issued.

After a series of litigations, appointment letter was issued in the year 2010. The petitioner presently seeks an order to accord notional benefit from the date of his empanelment in the year 2000.

4. Having heard the learned Advocates appearing for the respective parties, I find that the aforesaid issue is squarely covered by a judgment delivered by the coordinate Bench in the matter of Suman Rai & Ors. vs. The State of West Bengal & Ors. in WPA No.933 of 2024 on 26th September, 2024. In such case, the coordinate Bench following the judgment delivered by the Division Bench of this Court on 31st October, 2019 in the matter of Asim Kumar Chakrabarti vs. The State of West Bengal & Ors. (WPST No.112 of 2019) was pleased to hold that by reasons of failure on the part of the respondents to issue the appointment letter, the petitioner cannot be made to suffer.
5. In the instant case, I find that the petitioner had participated in the selection process and had become successful. The name was empanelled for appointment in the year 2000 but the appointment letter was actually issued and handed over in 2010 after a series of litigations. I find that it has rightly been pointed out by the

learned Advocate for the petitioner, had the appointment letter been issued in time, the petitioner would have joined service long back. For non-issuance of the appointment letter in proper time, the petitioner did not receive salary. Not allowing the prayer for grant of notional benefit would amount to sheer injustice particularly when the delay in issuance of the letter of appointment was in no way attributable to the petitioner.

6. Accordingly, the writ petition stands disposed of by directing the Executive Director, Education Department, GTA to accord approval of notional benefit to the petitioner from the date of his empanelment.
7. It is made clear that the notional benefit will only be allowed for the purpose of calculating retirement benefit. Actual financial benefit will, however, be payable only from the date of appointment in service.

(Raja Basu Chowdhury, J.)