

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Mr. Subesh Kumar Das (Administrative Member)

Case No – O.A. 747 of 2019

RABINDRA NATH DEYASHI Vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>2</p> <hr/> <p>02.12.2019</p>	<p>For the Applicant : Mrs. S. Agarwal, Advocate</p> <p>For the State Respondent: Mr. A. Datta, The Departmental Representative</p> <p>In this application the applicant, who had superannuated from Group 'D' post on 31st October, 2016, has challenged an order dated 14th August, 2019, passed by the Additional Chief Secretary, Land and Land Reforms and RR&R Department, Government of West Bengal, appearing at page 53 of the application, on several grounds. It appears that earlier the applicant had moved the Tribunal by filing an application, being O.A. 804 of 2017 : Sri Rabindra Nath Deyashi Vs. The State of W.B. & Ors. In the said application the applicant had prayed for a direction upon the State respondents to release pension by condoning the shortfall of service in view of the order of the Tribunal dated 14th July, 2005 passed in O.A. 614 of 2005 (Rabindra Nath Deyashi vs. State of West Bengal & Ors.). The said application was disposed of by passing an order, the relevant portion of which is as under:</p> <p style="text-align: center;">“.....since we find that the</p>	

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	<p>applicant was absorbed in the permanent service on 14th October, 2007 and had superannuated on 31st October, 2016, that is after having worked for nine years, five months and sixteen days, this application is disposed of by directing the Secretary, Land and Land Reforms Department, Government of West Bengal to pass a reasoned order, to be communicated to the parties within twelve weeks from the date of presentation of a copy of this order, after giving an opportunity of hearing to the applicant and after perusing the records and after being satisfied that the applicant had worked uninterruptedly and continuously for the purpose of qualifying service and consequent payment of pension, provided that service is followed immediately and without any break by permanent service and after considering the principles of law laid down in the judgements in Nemai Ch. Chatterjee & Others (supra), Smt.</p>	

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	<p style="text-align: center;">Sambari Sardar (supra) and Kishori Mohan Mahato (supra). The judgement passed in Krishna Das Gupta (supra) is not applicable to the facts of the case as therein the issue was regarding claim of appointment with retrospective effect and seniority.”</p> <p style="text-align: center;">It is submitted by Mrs. S. Agarwal, learned advocate for the applicant that though the Tribunal had directed the respondent to pass a reasoned order to be communicated to the parties within twelve weeks from the date of from the date of presentation of a copy of the order after giving an opportunity of hearing to the applicant, however, the notice dated 27th May, 2019, issued by the Additional Secretary to the Government of West Bengal directing the applicant to appear on 31st May, 2019 for hearing, had reached him on 1st June, 2019 as evident from page 44 of the application and as even the subsequent notice dated 13th June, 2019 fixing hearing on 19th June, 2019, was received by her client on 21st June, 2019, as evident from page 50 of the application and as the applicant could not attend hearing for no fault of his own, appropriate order may be passed setting the impugned order dated 14th August, 2019.</p> <p style="text-align: center;">Heard Mrs. Agarwal, learned advocate and Mr.</p>	

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	<p>A. Datta, the Department Representative.</p> <p>Since we find that the Tribunal had passed an order directing the respondents to pass a reasoned order after giving opportunity of hearing and as we find that the notice dated 27th May, 2019, fixing the date of hearing on 31st May, 2019, had reached the applicant on 1st June, 2019 that is, after the date of hearing and the subsequent notice dated 13th June, 2019, fixing the date of hearing on 19th June, 2019, was served on the applicant on 21st June, 2019 and thus the applicant could not attend hearing, the impugned order dated 14th August, 2019 cannot be sustained and is, therefore, set aside and quashed. The application is allowed. Accordingly, the Secretary, Land and Land Reforms Department, Government of West Bengal, now redesignated as the Principal Secretary, Land and Land Reforms Department, Government of West Bengal, the respondent no.1, is directed to consider the matter afresh by passing a reasoned order, to be communicated to the parties within twelve weeks from the date of presentation of a copy of this order, after giving an opportunity of hearing to the applicant by issuing notice sufficiently in advance and after perusing the records and after being satisfied that the applicant had worked uninterruptedly and continuously for the purpose of qualifying service and consequent payment of pension, provided that service is followed immediately and without any break by permanent service, after considering the</p>	

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SCN.	<p>principles of law laid down in the judgements in W.P.S.T. 532 of 2010 : Nema Ch. Chatterjee vs. State of West Bengal, in OA 1431 of 2014 : Smt. Sambari Sardar-Vs- The State of West Bengal & Others and in OA 910 of 2016 : Kishori Mohan Mahato –Vs- The State of West Bengal. The judgement passed in WPST 22 of 2011 : Krishna Das Gupta vs. State of West Bengal is not applicable to the facts of the case as therein the issue was regarding claim of appointment with retrospective effect and seniority.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	