

**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. 875 of 2018

ASWINI KUMAR DUTTA 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>19.02.2019</p>	<p>For the Applicant : Mr. M.N. Roy, Mr. S.S. Mandal, Mr. R. Islam, Advocates</p> <p>For the Respondents : None</p> <p>For the Principal Accountant : Mr. B. Mitra General (A&amp;E), West Bengal Departmental Representative</p> <p>Let affidavit of service filed be kept on record. As prayed for by Mr. M.N. Roy, learned advocate for the applicant, leave granted to amend the cause title so far it relates to respondent no.1.</p> <p>In this application, Aswini Kumar Dutta, the applicant has, inter alia, prayed for a direction upon the respondents to grant pension month by month with effect from 1<sup>st</sup> June, 2018 after condoning the period of shortfall of one month twenty nine days in computing the qualifying service for grant of pension.</p> <p>Mr. Roy referring to the intimation dated 11<sup>th</sup> April, 2018 issued by the Senior Accounts Officer, office of the Principal Accountant General (A&amp;E), West Bengal, Kolkata, the respondent no.V, submits that since it is</p>	

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	<p>evident that gratuity has been disbursed and pension could not be granted for the shortfall as he did not complete the qualifying service of 10 years and as the shortfall is only one month twenty nine days, in view of Rule 36 of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971, the deficiency in services to qualify for pension may be condoned. Though representation dated 18<sup>th</sup> September, 2018, praying for condoning the deficiency in qualifying service was submitted before the authority it has not been considered. Aggrieved, this application has been filed.</p> <p>Mr. B. Mitra, the Departmental Representative of the Principal Accountant General (A&amp;E), West Bengal, Kolkata submits that since condoning the deficiency is the discretion of the Department, the Department may be directed accordingly.</p> <p>Heard Mr. Roy, learned advocate and Mr. Mitra, the Departmental Representative. Before proceeding with the matter it is appropriate to set out the relevant portion of Rule 36 of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 which is as under :</p> <p style="text-align: center;">“36. Power of Government to condone deficiency in service – Upon any condition which it may think fit to impose, Government may condone a deficiency of six</p>	

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SCN.	<p>months in the qualifying service of a Government servant.”</p> <p>Since we find that the deficiency is admittedly one month twenty nine days as evident from the intimation dated 11<sup>th</sup> April, 2018, issued by the Senior Accounts Officer in the office of the Principal Accountant General (A&amp;E), West Bengal, Kolkata, the respondent no.V, appearing at page 15 of the application, considering such fact, this application is disposed of by directing the Principal Secretary, Department of Forest, Government of West Bengal, Kolkata, the respondent no.1 to condone the period of shortfall of one month twenty nine days of deficiency of service in view of Rule 36 of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 by passing appropriate order to enable the applicant to have pension by passing a reasoned order to be communicated to the applicant within eight weeks from the date of presentation of a copy of this order. If the respondent no.1 is of the view that appropriate directions have to be issued for taking follow up action, the said respondent is at liberty to issue appropriate orders.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	