

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. 176 of 2019

BADAL CHANDRA MAHATA 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>7</p> <hr/> <p>11.06.2019</p>	<p>For the Applicant : Mrs. S. Mitra Advocate</p> <p>For the Respondents : Mr. M.N. Ray Advocate</p> <p>For the A.G., West Bengal: Mr. B. Mitra Departmental Representative</p> <p>As prayed for by Mrs. S. Mitra, learned advocate for the applicant, let the cause title, so far as respondent no.1 is concerned, be amended by adding Additional Chief Secretary, Department of Home, Government of West Bengal, as the party respondent no.1.</p> <p>Pursuant to the directions contained in the order dated 5th April, 2019, Mrs. S. Mitra, learned advocate for the applicant produced the service book of the applicant.</p> <p>In this application, Badal Chandra Mahata, the applicant who was appointed as Constable under the Superintendent of Police, Bankura on 16th January, 2007 and who had superannuated on 30th June, 2016, has prayed for a direction upon the Additional Chief Secretary, Department of Home, Government of West Bengal,</p>	

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	<p>Nabanna, Howrah, the respondent no.1, to release pension with effect from 1st July, 2016 after condoning the shortfall of service considering his past service as a Home Guard in the light of the order passed by the High Court in W.P.S.T. No. 31 of 2014 (Pastu Deb Singha vs. State of West Bengal & Others). Mrs. Mitra, submits that since the issue is settled in view of the judgement passed in Pastu Deb Singha (Supra), particularly the law laid down in paragraph 6 thereof, appropriate order may be passed.</p> <p>Mr. M.N. Ray, learned advocate for the State submits that under Rule 36 of the D.C.R.B. Rules, relaxation regarding shortfall in service can be condoned upto six months by the respondents. Beyond the said period an employee may apply to the Governor of the State of West Bengal for relaxation of the Rules under Rule 4 of the DCRB Rules.</p> <p>Mr. B. Mitra, the Departmental Representative on behalf of the Principal Accountant General, A&E, West Bengal, respondent no.6, adopts the submission of Mr. Ray.</p> <p>We find that the law regarding relaxation of shortfall in service has been settled in Pastu Deb Singha (Supra) wherein the High Court while disposing of the writ petition had, inter alia, held as under :</p>	

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	<p>“6. We have, by a separate judgement delivered today in WPST No. 532 of 2010, decided the issues which arise in these petitions. We have held that under the DCRB Rules, the service rendered by an employee on a temporary basis continuously, prior to his being conferred with the permanent status must be taken into account for computing qualifying service for payment of pension. For the reasons stated in the judgement delivered in WPST No. 532 of 2010 these petitions are also allowed.</p> <p>7. However, where the petitioners have not rendered qualifying service of ten years even after reckoning the period of service rendered by them as temporary employees, they would not be entitled to pension as a matter of right. In such cases the Government will apply Rule 36 of the DCRB Rules under which it is vested with the power to condone the deficiency in the qualifying service upto six months. An employee may also apply to the Governor of the State of</p>	

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SCN.	<p style="text-align: center;">West Bengal for the relaxation of the Rules under Rule 4 of the DCRB Rules.</p> <p style="text-align: center;">8. All arrears of pension shall be paid to the petitioners by 30th July, 2014 and the pension will be paid to them every month hereafter.”</p> <p style="text-align: center;">Since it is submitted that the applicant had rendered past service as home guard on temporary basis continuously, before being conferred the permanent status, considering the facts and circumstances of the case, this application is disposed of by directing the Additional Chief Secretary, Department of Home, Government of West Bengal, Nabanna, Howrah, the respondent no.1, to dispose of the matter regarding grant of pension after considering whether the applicant had rendered service on temporary basis continuously for a period of six months thirteen days as a home guard before being granted permanent status, after giving an opportunity of hearing to the applicant and after verifying the records, within twelve weeks from the date of presentation of a copy of this order.</p> <p style="text-align: center;">Let the service book of the applicant be returned to Mrs. Mitra.</p> <p>(S.K. Das) MEMBER (A)</p> <p style="text-align: right;">(Soumitra Pal) CHAIRMAN</p>	