

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**The Hon'ble Justice Ranjit Kumar Bag  
& The Hon'ble Dr. Subesh Kumar Das**

Case No – **OA 335 OF 2016**

**Smt. Suvra Nath (Dey) 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 style="text-align: center;">07 20.06.2018</p>	<p><b>For the Applicant</b> : Mr. D.N. Chatterjee, Mr. R.K. Biswas, Learned Advocates.</p> <p><b>For the Respondents</b> : Mr. S. Bhattacharjee, Mr. A. De , Departmental Representatives.</p> <p>The applicant claims to have been appointed as Tahasildar on part-time basis under the Department of Land &amp; Land Reforms, Government of West Bengal w.e.f. July 1, 1984 and subsequently she joined in regular establishment on June 21, 2007 on the basis of order dated June 20, 2007 issued by District Land &amp; Land Reforms Officer and Additional District Magistrate, Birbhum. Admittedly, she retired from service on August 31, 2015. The applicant has served in regular establishment as Group-D employee for a period of 8 years 2 months and a few days and thereby she was denied pension and other pensionary benefits. The applicant has prayed for direction upon the respondents to give effect to the appointment of the applicant in regular establishment from the date of her Medical Examination and Police Verification held on March 27, 2000.</p> <p>Learned Counsel for the applicant contends that the applicant served temporarily as Tahasildar for about 14 years before her absorption in the regular establishment on the basis of order dated June 20,</p>	

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2007 and the said period of service rendered by the applicant should be taken into consideration for the purpose of computation of qualifying service for pension. Learned Counsel has relied on unreported decision of the Division Bench of the Hon'ble High Court at Calcutta in the case of "Sk. Golam Zikria v. The State of West Bengal & Others" (WPST No. 81 of 2014 disposed of on February 16, 2015) in support of his contention that the temporary service rendered by the applicant for a period of 14 years should be counted for qualifying service for pension.

Mr. Bhattacharjee, the authorized representative of state respondents, has relied on unreported case of "Krishna Das Gupta v. State of West Bengal & Others" (WPST No. 11 of 2011 disposed of on March 3, 2011) in support of his contention that the Court can never give any direction to the respondents to give retrospective effect of any appointment as prayed by the applicant. He further submits that the applicant worked as Tahasil Mohurrir on part-time basis during fixed period of the calender year before her absorption in the regular establishment w.e.f. June 21, 2007 and as such the said period of service can never be counted as qualifying service for pension.

The applicant has specifically stated in paragraph 4 of the original application that she was appointed as part-time employee on July 1, 1984 and subsequently

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	<p>she was absorbed in regular establishment by order dated June 20, 2007. In the absence of production of any document to establish the temporary and continuous service of the applicant before her absorption in the regular establishment, we are unable to accept the contention made on behalf of the applicant that the applicant was working temporarily and continuously before her absorption in the regular establishment w.e.f. June 21, 2007. In the unreported case of “Sk. Golam Zikria” (supra), the Division Bench of the Hon’ble High Court at Calcutta dealt with the issue of condonation of deficiency in qualifying service for pension of an employee who served in the regular establishment for a period of 9 years 7 months and 23 days. In the said unreported case, the deficiency in qualifying service for pension could have been condoned by the Government by invoking provisions of Rule 36 of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971. However, in the said unreported case, the Division Bench referred to earlier decision in the case of “Pastu Deb Singha v. State of West Bengal &amp; Others” reported in 2014 (4) CHN (Cal.) 32 wherein the Division Bench has held in paragraph 6 that the service rendered by an employee on temporary basis continuously prior to the conferment of permanent status must be taken into account for computation of qualifying service for pension. In the instant case, there is nothing on record to indicate that the applicant worked temporarily and continuously for</p>	
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a period of 14 years before her absorption in the regular establishment as contended on behalf of the applicant. The shortfall in qualifying service for pension of the applicant in the present case is about 1 year 9 months and a few days, whereas shortfall in the qualifying service of the petitioner of the unreported case was less than 6 months and thereby the Division Bench of the Hon'ble High Court directed for condonation of deficiency in qualifying service for pension by invoking the provisions of Rule 36 of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971. Accordingly, the facts of the present case are distinguishable from the facts of unreported case of "Sk. Golam Zikria" (supra) and as such the ratio of the said unreported case cannot be made applicable in the facts of the present case.

In "Krishna Das Gupta v. State of West Bengal & Others" (supra), the Division Bench of the Hon'ble High Court at Calcutta dealt with the issue where the petitioner prayed for appointment with retrospective effect for getting pensionary benefits. In the said unreported case, the petitioner rendered service as Tahasil Mohurrir for prolonged period of time before absorption in the regular establishment. The Police Verification of the petitioner of the said case was completed in the year 2000 and appointment in the regular establishment was given in the year 2005 and as such, the petitioner claimed for giving effect of the

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appointment from the date of Police Verification. In the present case, the applicant has made the same prayer of giving effect of appointment from the date of Police Verification held on March 27, 2000 and the applicant has taken the same plea of inordinate delay in giving appointment for absorption in the regular establishment due to latches on the part of the Government. The Division Bench of the Hon'ble High Court rejected the claim of giving appointment with retrospective effect of the petitioner in the unreported case of "Krishna Das Gupta" (supra). By following the said decision of the Division Bench of the Hon'ble High Court, we would like to hold that appointment can never be given to the applicant with retrospective effect from the date of Police Verification on March 27, 2000 for computation of qualifying service for pension.

In view of our above findings, we cannot persuade ourselves to give direction to the respondents as prayed by the applicant, in spite of the fact that we have full sympathy for the applicant. As a result, the application is **dismissed**.

The **urgent** xerox certified copy of the order, if applied for, be supplied to the parties by giving priority on completion of all formalities.

**( S.K. DAS )**  
MEMBER(A)

**( R. K. BAG )**  
MEMBER (J)

Sanjib