

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 381 OF 2018**

Ram Nagen Chowdhury 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;">01 26.07.2018</p>	<p>For the Applicant : Mrs. S. Mitra, Mr. S. Ghosh, Mr. R.K. Mondal, Learned Advocates.</p> <p>For the Respondents : Mr. S.K. Chakraborty, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant has prayed for direction upon the respondents for counting his past service from June 11, 1984 till January 15, 2006 along with the present service rendered by him as Constable of Police for computation of the period of qualifying service for pension.</p> <p>The contention of the applicant is that he joined in the post of Constable of Police on January 19, 2007 and he retired from the said post on March 31, 2016. The applicant rendered service for total period of 9 years 2 months and 12 days. It is contended on behalf of the applicant that there was deficiency of more than 6 months of service in computation of total period of 10 years of qualifying service for pension. The applicant has prayed for counting of his past service rendered as National Volunteer Force (in short NVF) from June 11, 1984 to January 15, 2006 for computation of qualifying service for pension.</p>	

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<p>Mrs. Mitra, Learned Counsel for the applicant, contends that the applicant worked as member of NVF from June 11, 1984 to January 15, 2006 before his appointment on regular basis in the post of Constable of Police on January 19, 2007 and as such the said period of past service of the applicant as member of NVF should be counted for computation of qualifying service for pension. She has relied on Judgment of the Division Bench of Hon'ble High Court in the case of "Rameswar Tudu v State of West Bengal & Others" (WPST No. 31 of 2014 and other connected cases disposed of on April 30, 2014) in support of her above contention. On the other hand, Learned Counsel for the state respondents has placed on record one letter dated July 12, 2018 wherefrom it appears that the applicant performed the duty as member of NVF for a period of 21 years 7 months and 4 days on daily wage basis. The order dated June 3, 1969 issued by the Assistant Secretary to the Government of West Bengal, Department of Home (Defense Branch) is enclosed with the letter dated July 12, 2018 produced on behalf of the state respondents. It appears from the said order dated June 3, 1969 issued by the Home Department of Government of West Bengal that a member of NVF cannot be deployed for duty exceeding 3 months at a stretch. In other words, there must be gap in the service of a member of NVF after every 3 months. Moreover, there is nothing on record to indicate that the applicant has rendered any service during the</p>	
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period from January 16, 2006 to January 18, 2007.

With the above factual matrix, the issue for determination is whether the past service rendered by the applicant as member of NVF will be counted for computation of qualifying service for pension. In the unreported case of “Rameswar Tudu v State of West Bengal & Others” (supra), the Division Bench of Hon’ble High Court has held in paragraph 6 of the Judgment that the service rendered by any Government employee on a temporary basis continuously prior to conferring upon him permanent status in the service must be taken into account for computation of qualifying service for pension. In the instant case, the applicant has served as member of NVF during the period from June 11, 1984 to January 15, 2006 with break after every 3 months. Moreover, the applicant has not rendered any service during the period from January 16, 2006 to January 18, 2007. The natural corollary of our above observation is that the applicant has not rendered any service continuously for more than 3 months at a stretch and as such the facts of the present case are clearly distinguishable from the facts of “Rameswar Tudu” (supra), and as such the ratio of the said case cannot have any manner of application in the facts of the present case.

Since the applicant has not rendered any service continuously for more than 3 months before joining in the post of Constable of Police, the applicant is not

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entitled to get the benefit of counting his past service as contended on behalf of the applicant. Since the deficiency in qualifying service for pension of the applicant is more than 6 months, we cannot persuade ourselves to give any direction to the state respondents to condone the deficiency by invoking the provision of Rule 36 of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971. As a result, the original application is **dismissed**.

Let a plain copy of this order be supplied to all the parties.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Sanjib