

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 671 OF 2014**

Swapan Kumar Das 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
17 <hr/> 20.03.2018	<p>For the Applicant : Mr. G.P. Banerjee, Learned Advocate.</p> <p>For the Respondents : Mr. B.P. Roy, Learned Advocate.</p> <p>For the AG, WB : Mr. B. Mitra , Depttl. Rep.</p> <p>The applicant has prayed for quashing of the order communicated under letter dated November 20, 2012 by the respondent no. 3 and for grant of pension in favour of the applicant by condoning the period of shortfall of 3 (three) months and 23 (twenty three) days of qualifying service for pension.</p> <p>It appears from the materials on record that the applicant joined in the service under the respondent no. 5 on April 25, 2002 and was retired from service on December 31, 2012. The applicant is deprived of the pension for not completing 10 (ten) years of qualifying service. There is shortfall of 3 (three) months and 23 (twenty three) days in qualifying service for getting pension. The applicant submitted one representation before the respondent no. 1, Secretary, Department of Public Works and Public Works (Roads), Government of West Bengal through proper channel on December 12, 2011, by which the applicant has specifically prayed for condoning shortfall</p>	

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in qualifying service as laid down in Rule 36 of the West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971 (hereinafter referred to as DCRB Rules, 1971). The representation submitted by the applicant was processed in the department and ultimately the prayer of the applicant was rejected and the same was communicated on November 20, 2012 by the respondent no. 3 (page 25 to the original application). On perusal of the letter dated November 20, 2012 issued by the respondent no. 3 in favour of the respondent no. 4, we find that no decision has been taken by the respondent no. 1 whether shortfall in the qualifying service of the applicant has been condoned or not as laid down in Rule 36 of DCRB Rules, 1971.

Having heard Learned Counsel representing both parties and the authorised representative of the Principal Accountant General (A&E), West Bengal and on consideration of letter dated November 20, 2012, we find that the respondent no. 1 has not considered whether shortfall in qualifying service of the applicant for pension can be condoned by invoking the provisions of Rule 36 of DCRB Rules, 1971. Since the specific prayer of the applicant was for condoning deficiency in qualifying service for pension in the representation dated December 12, 2011 and since the said aspect has not been considered by the respondent no. 1, we set aside the order of rejection of

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prayer of the applicant, which was communicated under letter dated November 20, 2012 (page 25 to the original application).

In view of our above findings, we direct the respondent no. 1, Principal Secretary, Public Works Department, Government of West Bengal to reconsider the representation submitted by the applicant on December 12, 2011 in accordance with the provisions of Rule 36 of the DCRB Rules, 1971 for the purpose of condoning the shortfall of 3 (three) months and 23 (twenty three) days in qualifying service of the applicant for pension within a period of 12 (twelve) weeks from the date of communication of the order and communicate the result of the same to the applicant within a period of 2 (two) weeks thereafter.

With the above direction, the original application is disposed of.

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

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)