

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

Case No. - OA 93 of 2020

Durga Das Maiti - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mrs. S. Mitra, Advocate.
<u>05</u> 27.01.2021	For the State Respondents	: Mr. S. Bhattacharjee, Advocate.
	For A.G. (A & E), West Bengal	: Mr. B. Mitra, Departmental Representative.

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub-section (6) of Section 5 of the Administrative Tribunals Act, 1985.

In this application, the applicant Durga Das Maiti, has prayed for several reliefs, relevant portion of which is as under :

.....”*Pass an order directing the respondents to release the pension with effect from 01.06.2013 by condoning the shortfall of service considering the solemn order passed with honourable High Court as well as honourable Supreme Court of India, within a stipulated period of time.*”

It appears that the applicant was initially engaged as Home Guard from 1973 to 18th January, 2006 in Bankura. The applicant was transferred to the office of the Superintendent of Police, Bankura and posted in SAP 13th Battalion office at Barjora, District- Bankura on 29th January, 2006. By order dated 10th January, 2006 the applicant was provisionally selected for the post of Constable The Superintendent of Police, Home Guards, Bankura issued a memo about the appointment of the applicant. The applicant made a representation before the Superintendent of Police, Home Guards, Bankura that for joining as Constable he has

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to resign as Home Guard. Thereafter, he was appointed as a Constable on 28th January, 2006. After rendering service the applicant had superannuated on 31st March, 2013.

It is submitted by Mrs. S. Mitra, learned advocate for the applicant that since there was continuity of service of the applicant from the service in the post of Home Guard till he had superannuated as Constable he is entitled to pension as in that event the stretch of employment was more than ten years. In this regard, attention has been drawn to the order passed in WPST 379 of 2013 (Anantalal Mahata –v- State of West Bengal & Ors.) annexed to this application.

Mr. S. Bhattacharjee, learned advocate appearing for the State respondents referring to page 20 of the original application submits that since it is evident that there was a break of service of two days, the applicant is not entitled to the reliefs as prayed for as in that event there would be a short fall of 3 years for counting pensionary benefits.

Having heard learned advocates for the parties, the application is disposed of by directing the Secretary, Department of Home, Government of West Bengal, respondent no. 1 to dispose of the representation dated 18th September, 2019, being annexure A-7 to the application by passing a reasoned order to be communicated to the parties within a period of ten weeks from the date of presentation of the order downloaded from the internet / website after giving the applicant an opportunity of hearing, after verifying of records and after considering the judgment passed in WPST No.

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379 of 2013 delivered on 23rd July, 2014.

Since for circumstances beyond control the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

(SOUMITRA PAL)
CHAIRMAN

Rajib