

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. –OA-103 of 2024

Sunil Kumar Medda. -- **VERSUS** – The State of West Bengal & Others

Serial No. and
Date of order

For the Applicant

: Mrs. S. Agarwal,
Learned counsel.

04
21.03.2025

For the State Respondents

: Mr. G. P. Banerjee,
Learned counsel.

For the Principal Accountant
General (A&E), West Bengal.

: Mr. B. Mitra,
Departmental Representative.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels and the learned Departmental representative for the contesting parties, the case is taken up for consideration sitting singly.

The applicant has filed this application praying for setting aside the reasoned order passed by the Superintendent of Police, Hooghly Rural Police District in his Memo. No. 2272 dated 28.08.2023. The reasoned order regretted such prayer of the applicant for counting his past service to qualify him for pension.

In brief, the applicant had been enrolled as NVF on 24.09.1985 and served in this capacity till 15.11.2007. On 16.11.2007, he was appointed as a Constable under Hooghly District Police Force. At the time of such appointment as a Constable, the applicant had attained the age of 51 years. Later on 31.08.2016, Constable - Sunil Kumar Medda superannuated and received all his retiral benefits, except his pension. The respondent authorities did not sanction him such pension for the reason that he was not entitled for it since his qualifying service in the Police Department was only 8 years 9 months and 14 days. Mrs. S. Agarwal, learned counsel pleading for such a direction had submitted that the applicant's total length of service both as NVF

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and Constable exceeds more than 25 years without break. Mrs. Agarwal also points out that Rule 27 of WBS, DCRB Rules, 1971 relied on in the reasoned order is not a valid rule for rejection of such prayer.

Mr. G. P. Banerjee, learned counsel had submitted that there is no provision under any service rules to count the past service of having served as a volunteer under NVF with a regular service. The Tribunal is aware that in a similar matter relating to Sudhansu Karmakar and others-Vs.- State of West Bengal and others in W.P.S.T. No. 91 of 2019, the Hon'ble High Court observed the followings :-

“Admittedly, the power to relax the period for the purpose of qualifying service is provided in DCRB Rules, 1971 but with an outer cap of six months. The authorities cannot act in contravention to the statutory provisions nor the Writ Court should issue a Mandamus commanding the authorities to act in clear violation of the statutory provisions. Once the power of relaxation is brindled with an outer cap, the authorities are denuded of power to extend such relaxation, who do not come within the purview thereof.

We, thus, do not find any infirmity and/or illegality in the impugned order.

In view of the findings made herein above, the writ petition is disposed of.”

In this case also, the applicant's prayer for counting his past service as NVF Volunteer and sanction him his pension are decided within the ambit of Law and therefore, this is not a valid prayer.

In view of above observation, this application is disposed of without passing any orders.

S.M.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)