

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 172 of 2023

*Gobinda Prasad Samanta* -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. S.N. Roy, Ld. Advocate.
<u>02</u> 28.04.2023	For the State respondent Nos. 1,3,4 & 5	: Ms. R. Sarkar, Mr. S. Debroy, Mrs. A. Bhattacharya, Mr. R. Bag, Depttl. Reps.
	For the Pr.AG (A&E), WB	: Mr. B. Mitra, Depttl. Rep.

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 23<sup>rd</sup> 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 for the contesting parties, the case is taken up for consideration sitting singly.

Affidavit of service filed be kept on record.

Liberty as prayed for granted to the applicant to correct the address of the respondent no.1 in the cause-title during the course of the day and serve the copy of the application and copy of this order to the respondent no.1.

By an order dated 03.08.2022 in OA 160 of 2021 the Tribunal had directed the D.L. & L.R.O., Paschim Medinipur to dispose of the representation of the applicant dated 14.01.2021. The representation was addressed to the Secretary, Land and Land Reforms Department and other officials requesting for condonation of about 4 months and 20 days which would qualify him to receive the pension. In terms of this order, the Respondent D.L. & L.R.O. passed a reasoned order on 29.09.2022 rejecting the prayer for such condonation. The respondent had relied on a Government Memorandum No. 536-F(Pen) dated 01.10.2019 of the Finance Department, Government of West Bengal. The relevant part is as under:

“.....(i) A Government employee retiring in accordance with the provisions of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 and before completion of minimum qualifying service of ten years shall not be entitled to pension, but he shall continue to be entitled to gratuity”.

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Mr. S.N. Ray, Learned counsel appearing on behalf of the applicant points out that the Rule 36 of D.C.R.B. Rules however, gives the discretionary power to the government to condone upto 6 months of such shortfall. Since the ADM and DLRO, instead of relying on Rule 36 of D.C.R.B. Rules had rejected the representation citing 536-F(Pen) as quoted above, submission is that the Respondent No. 1, the Secretary, Land & Land Reforms Department be directed to consider his representation for condonation of such shortfall for qualifying pension using the Government's discretion as mentioned in Rule 36 of D.C.R.B. Rules.

Learned representatives of the department submit that if such a direction is given, the same will be considered as per eligibility and Rules.

After hearing the submissions of the learned counsels, the respondent no. 1, the Secretary, Land & Land Reforms Department is directed to consider and dispose of the representation dated 14.01.2021 as per rule within a period of sixteen (16) weeks from the date of communication of this order.

Accordingly, the application is **disposed of**.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

CSM/HS