

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 641 of 2018**

**Gita Naskar & Ors. -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicants : Mrs. Nomita Basu,  
Ld. Advocate.  
For the State Respondents : Mr. G.P. Banerjee,  
Mr. S. Ghosh,  
Ld. Advocates.  
For the Pr.AG (A&E), WB : Mr. B. Mitra,  
Ld. Depttl. Rep.

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13.12.2024

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.

The applicant had prayed for a direction to the respondent authorities to release his pension. As per the applicant in his application, he had been working since 1981 under Respondent No. 4, the Executive Engineer, Lower Damodar Construction Division (I&W Dte.). The applicant had superannuated on 31.08.2004. Attention has also been drawn by the learned counsel to a Memo No. 285 dated 21.02.1997, by which the applicant along with others were absorbed under work charged establishment with retrospective effect from 13.03.1996. Submission is that despite such absorption into work charged establishment and having superannuated since 2004, the applicant has not been sanctioned any pension and other reitral benefits. In this regard, the applicant had furnished a detailed representation before the respondent authorities dated 16.04.2018 praying for release of his pension along with arrears.

Mr. Banerjee responding to the submissions from the applicant's side makes a point that while receiving the other reitral benefits after his superannuation like G.P.F., Gratuity etc., the applicant never protested for release of his pension. Another submission of Mr. Banerjee is that as per extant rules, employees who retired without completing minimum 10 years of qualifying service, their gratuity is sanctioned on enhanced rate. The applicant was accordingly given such higher gratuity at the time of his superannuation. It has also been submitted by Mr. Banerjee that in the meantime, the applicant is deceased and such claim is now being agitated by the legal heirs, his wife and son. Therefore, in the event of the death of the applicant, the legal heirs should have prayed for family pension for which they have not made any prayers for

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family pension before the respondent authorities. The maintainability of this application is questionable on the ground that such an application was filed before this Tribunal after more than 14 years from the date the applicant had superannuated.

After hearing the submissions and on perusal of the records, it is clear that the fact the applicant had served for less than 10 years from the day of his absorption is not in dispute. As per observation above, the applicant was absorbed into work charged establishment on 13.03.1996 and retired on superannuation on 31.08.2004, thus, serving for a little more than 8 years but less than 10 years which would have qualified him for pension. Though the applicant had furnished a detailed representation but nowhere in his representation, he had indicated that his services in regular establishment was less than 10 years and prays for condonation of the shortfall before the competent authority. The applicant claims to have been working since 1981 and if the service from 1981 till the day he was absorbed is also added than a total length of 24 years would have been completed. But the question remains whether the claim of having worked since 1981 till his absorption in 1996 can be counted as part of qualifying service or not.

The fact of his having worked for four years before being regularised later is not in dispute. But it is also a fact that such service was not in regular establishment, therefore, these years of service were neither an integral part of his regular service nor can be counted for pension, which is a fundamental right of only these employees in regular service.

Thus, having observed the above and not finding any merit in the prayers of the applicant, this application is **disposed of** without any orders.

CSM

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