

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 68 of 2024

Smt. Malati Roy Poddar. -- **VERSUS** – The State of West Bengal & Others

Serial No. and
Date of order

For the Applicant

: Mr. Sourav Bhattacharjee,
Ld. Advocate.

04
19.02.2025

For the State Respondents

: Mr. Soumendra Narayan Ray,
Ld. Advocate.

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.

The prayer in this application is for a direction to the respondent authorities to disburse the pension and all other retirement benefits to the applicant.

Mr. Bhattacharjee learned counsel for the applicant had submitted that the impugned order dated 25.08.2015 passed by the respondent authority rejecting his prayer for condonation of the qualifying service is not tenable in terms of the order passed by Hon'ble High Court in WPST 112 of 2019. Further, Mr. Bhattacharjee prays to amend the prayers in this application by adding a supplementary prayer praying for setting aside the impugned memo dated 25.08.2015 was allowed.

Appearing on behalf of the state respondent authorities, however, Mr. Ray, learned counsel felt that this application is barred by limitation for challenging the impugned memo which was passed in the year 2015. Further, this application is still barred by limitation even after the order of the Hon'ble High Court order is accepted. The Hon'ble Court's order in WPST-112 was passed in the year 2019.

Responding to the argument of Mr. Ray that this application is barred by limitation. Mr. Bhattacharjee submitted that the applicant would have approached this Tribunal soon after the WPST 112 was disposed of by the Hon'ble High Court in 2019, but due to prevalence of Covid-19 Pandemic restriction, the applicant was not able to do so. Further, relying on a judgment

Form No.

Case No. **OA 68 of 2024**

Vs.

The State of West Bengal & Ors.

of the Hon'ble Apex Court (2008)8 SCC 648 : Union of India-Vs.-Tarsem Singh, Mr. Bhattacharjee is of the view that such limitation is not relevant in matters relating to pension of employees. Mr. Ray, however, did not agree with the contention of Mr. Bhattacharjee and rather points out that this application is barred by limitation for filing it five years after the WPST 112 was disposed of in the year 2019. He is also of the opinion that though the above Supreme Court case was referred but in this case, it is not applicable for the primary reason that in this application the applicant is seeking condonation of the shortfall in the service which would enable him to benefit from pension. From this, it is evident that this employee did not have the length of service which would entitle him to pension. Here, he is praying for condonation of shortfall which if condoned would enable him to pray for pension.

From the submissions, it is also clear that the applicant having a total length of service of 9 years and 5 months would not benefit, even if, 6 months shortfall is condoned under Rule 36 of DCRB. After such condonation, the applicant would still have a shortfall of one month. The actual shortfall comes to 7 months from the date of birth, as recorded, in his service book with his date of retirement.

The Tribunal also cannot agree with the applicant's contention that this case is similar to the case in (2008)8 SCC 648 for the reason that the case cited is about pension, whereas this matter relates to pension after condonation of the shortfall in service. Having such a shortfall, at the very first place, the applicant does not fall under the category of pension.

Thus, with the above observations and finding no merit, this application is disposed of without any orders.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.