

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. - OA 928 OF 2021

BIDHAN CHANDRA MONDAL - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mrs. Subarna Das, Advocate
<u>7</u> 30.03.2023	For the State Respondents	:	Ms. Ruma Sarkar, Mr. Saurav Deb Ray, Mrs. Anjana Bhattacharjee, Departmental Representatives.

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.

Mrs. Subarna Das, learned counsel appears on behalf of Mr. S.N. Ray, learned counsel for the applicant.

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

Ms. Ruma Sarkar, the Departmental Representative submits that the applicant, Bidhan Chandra Mondal has only 5 years 9 months and 10 days as the qualifying service, which is far below the required years of qualifying service, i.e. 10 years. Therefore, he is not qualified for pension.

Heard learned advocates for the parties.

I find that the issue is covered by the judgement of the Hon'ble High Court delivered on 18th January, 2022 passed in WP.ST 91 of 2019 (Sudhansu Karmakar and others – vs- State of West Bengal and others) wherein, interalia, it has been held as under :-

“.....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

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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..”.

In view of the observations of the Hon’ble High Court, since in this case also the short fall beyond six months cannot be condoned, no order is passed on the application. The application is disposed of.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.

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