

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Administrative Member.

Case No. –OA-533 of 2021.

Asoke Bhakat. - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: Ms. A. Shaw, Advocate.
<u>3</u> 28.02.2022.	For the State Respondents	: Mr. G. P. Banerjee, Advocate.
	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. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

In this case, the petitioner – Asoke Bhakat has prayed for certain reliefs, the relevant portion are as hereunder:-

“(a) An order do issue by setting aside the reasoned order dated 14.06.2021 being Annexure “A-6” with immediate effect.

(b) An order do issue by directing the respondents Principal Secretary to issue the necessary order to the concerned department by releasing the pension benefit of the applicant. Further more papers be sent to the respondent No. 5 being the Principal Accountant General (A & E, West Bengal) to release the pension alongwith all arrears in favour of the applicant forthwith.”

The petitioner – Asoke Bhakat worked as Work Asst. in the Public Works Department and superannuated on 29th February, 2020. The petitioner prays for release of retirement benefits which has not yet been considered on the ground that he has a shortfall of 35 days service to

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qualify for getting pension. The prayer is for condonation of these 35 days. Earlier on 7th December, 2020 in OA-318 of 2020 : Asoke Bhakat –Vs- The State of West Bengal & Others, the Tribunal had directed the Principal Secretary, Public Works Department, Government of West Bengal to dispose of the prayer of the application with a reasoned order. Pursuant to the Tribunal's direction, the Additional Chief Secretary, Public Works Department, Government of West Bengal considered the matter and referring to the Finance Department's opinion had rejected the petition citing WBS(DCRB) Rules, 1971, the relevant portion of the reasoned order is as follows:-

“In the light of the abovementioned facts and circumstances, the legal provisions and the Order passed by The Hon'ble West Bengal Administrative Tribunal, the point to be decided is whether the deficiency of 35 Days could be considered or not. In this regard, views of Finance Department, Government of West Bengal was solicited. Finance Department in their decision conveyed on 26/04/2021 have affirmed that in terms of WBS(DCRB) Rules 1971, shortfall of six months may be condoned by the State Government in case of invalid and compensation pension only and since the case of Sri Bhakat is not one of invalid and compensation pension, the shortfall of 35 days in his qualifying service cannot be condoned, in accordance with extant govt. rules.

3. Decision: *After going through the facts and circumstances of the case and after perusal of relevant records placed before me, it is found that shortfall of 35 days in qualifying service cannot be condoned, in the present case as per the extant govt. rules.”*

ORDER SHEET

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It is evident that the matter has to be decided by the Department in consultation with the Finance Department, Government of West Bengal. Since Finance Department is not a respondent party, the Ld. Advocate for the petitioner has submitted that the Finance Department may be added as a party which is accepted. A copy of the notice along with this Order be served upon the Finance Department.

Let the matter appear under the heading "Admission Hearing" on 28th March, 2022.

(SAYEED AHMED BABA)
MEMBER(A)

S.M.