

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

Hon'ble Justice Soumitra Pal, Hon'ble Chairman &
 Hon'ble Dr. Subesh Kumar Das, Administrative Member.

Case No. OA 887 of 2019.

MAHADEB MAHATO – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>2</p> <hr/> <p>13.12.2019.</p>	<p>For the Applicant : Mr. A. Dutta, Mr. S. Roy, Mrs. K. Das Chakraborty, Advocates.</p> <p>For the State Respondents : Mr. S.N. Ray, Advocate.</p> <p>Affidavit of service filed today be kept on record.</p> <p>The father of the applicant was a land-loser. The applicant was empanelled under the exempted category. Appointment letter dated 29th August, 2011 appointing the applicant as Chowkidar was issued. On 6th September, 2011 the applicant was appointed as Chowkidar. The applicant has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p><i>“ a) To direct the Respondent Authority to grant the pensionary benefits in favour of the Applicant by relaxing minimum qualifying service for being entitle to get pension.</i></p> <p><i>b) To consider the representation dated 13.09.2019 made by the applicant for authorities for relaxing the minimum qualifying service period for granting pensionary benefit to your applicant reckoning</i></p>	

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	<p><i>the service period of your applicant from the date taking into account the prescribed time frame given by Hon'ble High Court in its solemn direction vis-a-vis legal principles laid down by Hon'ble Supreme Court in respect of doctrine of equity...".</i></p> <p>It appears that the applicant had filed a writ petition before the Calcutta High Court, being W.P. 635 (w) of 2006 (Mahadeb Mahato-versus- the State of West Bengal and others) praying for appointment of the applicant in the exempted category. The writ petition was disposed of by the High Court by passing an order , the relevant portion of which is as under :-</p> <p><i>".....No one appeared for the State respondent.</i></p> <p><i>The writ petition is disposed of by directing the respondent no. 2. The Secretary to treat copy of this writ petition as the representation of the petitioner and to dispose of the same by a reasoned order in accordance with law. The order to be passed by him must not be discriminatory. Let this exercise be completed within eight weeks from the date of communication of this order.</i></p> <p><i>Needless to mention that the respondent no. 2 shall hear the affected parties before passing the</i></p>	

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	<p><i>order.</i></p> <p><i>The writ petition is, thus dispose of...”.</i></p> <p>Pursuant to the order of the High Court, the matter was forwarded to the Secretary, Water Resources Investigation & Development Department, the respondent no. 1 for consideration. Subsequently by memo dated 19th November, 2010 an order was passed, the relevant portion of which is as under:-</p> <p><i>“...On perusal of the aforementioned Government Orders and papers under disposal available in the instant file, I note that the case of the petitioner falls within the domain of the “Exempted Category” and hence have been satisfied to accord approval for appointment of the petitioner, Sri Mahadev Mahato in W.P. No. 635(w)/2006 [Mahadev Mahato-Vs- State of West Bengal & Ors] in a suitable post as land looser on compassionate ground.</i></p> <p><i>Let the process of appointment be implemented by the Establishment Cell of this department.</i></p> <p><i>Let Mr. Mahadev Mahato be informed.</i></p> <p><i>The matter is hereby disposed of and the order is issued in compliance with the order, dated 08.07.2009 of the</i></p>	

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	<p><i>Hon'ble High Court at Calcutta in W.P. No. 635 (w) of 2006 [Mahadev Mahato-Vs- State of West Bengal & Ors].....".</i></p> <p>Mr. A. Dutta, learned advocate appearing on behalf of the applicant submits that since the applicant is going to superannuate on 29th February, 2020 and as he would not be able to complete ten years of qualifying service to get pension for no fault of his own as the order for approval for appointment of the applicant, pursuant to the direction of the High Court, was issued beyond the time frame laid down by the High Court, order as prayed for, may be passed.</p> <p>Mr. S.N. Ray, learned advocate appearing for the State respondents submits that pursuant to the order dated 8th July, 2009 passed in W.P. No. 635(W) of 2006, the Secretary to the Government of West Bengal, Water Resources, Investigation & Development Department, the respondent no. 1 under memo dated 19th November, 2010, had passed an order for appointment of the applicant. Appointment was granted. Having secured the benefit of the order passed by the High Court, the applicant after so many years cannot plead that he will not be able to complete ten years of qualifying service for</p>	

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Skg.	<p>the delay caused allegedly by the respondents in giving appointment and therefore, the application is not maintainable and is also without merit.</p> <p>In reply, Mr. Dutta submits that as there is merit in the application the representation dated 13th September, 2019, appearing at page 36 of the application, may be directed to be considered.</p> <p>Having heard Mr. Dutta and Mr. Ray, learned advocates for the parties and considering the facts and circumstances of the case, the application is disposed of by directing the Secretary, Water Resources Investigation and Development Department, - the respondent no.1, to dispose of the representation dated 13th September, 2019, being annexure 'E', at page 36 of the application, by passing a reasoned order to be communicated to the parties within twelve weeks from the date of presentation of a copy of this order, after giving an opportunity of hearing to the applicant or to his authorised representative and after verifying the records.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	

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