

**ORDER SHEET**  
**West Bengal Administrative Tribunal**

Present.-  
The Hon'ble Justice Ranjit Kumar Bag  
&  
The Hon'ble Dr. Subesh Kumar Das

Case No. **OA - 145 of 2014**

*Hari Pada Nayek*

Versus

*The State of West Bengal & Others. .*

Serial No. and  
date of order

Order of the Tribunal  
with signature

Office action with date  
and dated signature of  
parties when necessary.

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30/08/2018

**For the Applicant** : *Mrs. R. Das,*  
*Learned Advocate.*

**For the State Respondents** : *N O N E.*

**For the A.G., W.B.** : *Mr. B. Mira,*  
*Departmental Representative*

*The applicant has prayed for direction upon the respondents to release pension and other retirement benefits in favour of the applicant.*

*The applicant claims to have joined in the post of Night Guard on April 18, 1996 and retired from the said post on May 31, 2006. The applicant previously moved the Tribunal by filing OA 453 of 2011 which was disposed of on January 24, 2012. On January 24, 2012, the Tribunal gave direction to the respondents to consider whether the applicant is entitled to get pension and pensionary benefits and to communicate the same to the respondent A.G., W.B. within specific period of time. It appears from the original pension file of the applicant maintained by the respondent A.G., W.B that the date of joining of the applicant in the post of Night Guard was on May 1, 1997. Mr. Mitra, the departmental*

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	<p><i>representative of respondent A.G., W.B submits that the applicant is not entitled to get pension for not rendering 10 years of service as per provisions of Rule 67 of West Bengal Services (Death – cum – Retirement Benefit) Rules 1971 (herein after referred to as DCRB Rules, 1971).</i></p> <p><i>Learned Counsel representing the applicant has placed on record the order dated April 9, 1996 issued by the Superintending Engineer (I) Kangsabati Circle, Bankura and submitted that the applicant was appointed in the post of Night Guard under Work-charged Establishment with effect from April 18, 1996. She further submits that the applicant has completed 10 years of qualifying service for pension, but the applicant is deprived of the pension in spite of specific order in this regard by the Tribunal on January 24, 2012 in OA 453 of 2011.</i></p> <p><i>On consideration of the materials on record, we find that the applicant has received Rs. 47, 575/- as Gratuity by A/c Payee cheque dated December 28, 2012. The question which calls for determination is whether the applicant is entitled to get pension as per provisions of Rule 67 of the DCRB Rules, 1971. The entries made in the copy of the Service Book of the applicant (Annexure A to the original application) indicate that the applicant was appointed in the post</i></p>	

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	<p><i>of Night Guard under Work-charged Establishment with effect from April 18, 1996. It further appears from the Service Book that the applicant was absorbed in the Regular Establishment with effect from July 1, 1998. It is not clear to us how the respondent no. 4 communicated to the respondent A.G., W.B. that the applicant was appointed on May1, 1997, particularly when the documents in support of the appointment of the applicant in the post of Night Guard clearly indicate that the applicant was initially appointed in the post of Night Guard under Work-charged Establishment on April 18, 1996 and subsequently absorbed in the Regular Establishment on July 1, 1998. In the absence of any supporting document, we are unable to accept the date of joining of the applicant on May 1, 1997 as disclosed in the letter issued by the respondent no.4 in favour of the respondent A.G., W.B. In view of our above observation, we can safely hold that the applicant joined in the post of Night Guard in the specific pay scale on April 18, 1996 under Work-charged Establishment and he was absorbed in the Regular Establishment with effect from July 1, 1998.</i></p> <p><i>There is nothing on record to indicate that there was any break in continuous service of the applicant from the period of initial appointment under Work-</i></p>	

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	<p><i>charged Establishment till the date of absorption in the Regular Establishment. Since the applicant was appointed as Night Guard under Work-charged Establishment on April 18, 1996 and worked continuously till his absorption in the Regular Establishment on July 1, 1998, we are of the view that the period of service of the applicant from April 18, 1996 to July 1, 1998 should be counted for computation of qualifying service for pension as per provisions Rule 67 of the DCRB Rules, 1971. Thus on mathematical calculation of the period of service of the applicant from April 1, 1996 till May 31, 2006, we are of the view that the applicant has fulfilled the criteria for qualifying service of pension and thereby the applicant is entitled to get pension as laid down in Rule 67 of the DCRB Rules, 1971.</i></p> <p><i>Accordingly, respondent no. 4, the Executive Engineer, Kangsabati Canals, Division II is directed to take necessary steps for sanction of pension of the applicant within a period of twelve weeks from the date of communication of the order and intimate the result of the same to the applicant within a period of two weeks thereafter.</i></p> <p><i>With the above direction, the original application is <b>disposed of</b>.</i></p> <p><i>The original file produced on behalf of the</i></p>	

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*respondent A.G., W.B. is returned.***S. K. DAS**  
**MEMBER(A)****R. K. BAG**  
**MEMBER(J)***Rajat*

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