

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Mrs. Urmita Datta (Sen), Member(J)****The Hon'ble Mr. P. Ramesh Kumar, Member(A)****Case No – OA- 462 of 2013.****Himadri Patra & 65 Others. Vs The State of West Bengal & Others.**

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<p>17</p> <hr/> <p>19/11/2019</p>	<p>For the Applicant : Mr. P. Ghosh, Ld. Advocate.</p> <p>For the State Respondents: Mr. M.N. Roy, Ld. Advocate.</p> <p>The instant application filed basically challenging the impugned order dated 04.12.2012. As per the applicant their case was rejected on the ground that they were below 18 years of age when they were appointed and they did not fulfil 5 years continuous service after attaining 18 years of age. However, as per the counsel for the applicants, they were not engaged under the Government initially even Government did not objected for such initial appointment. Now under the scheme they cannot impose any criteria fulfilling of 18 years of age in the circular. Therefore, he has also challenged the circular dated 30.11.99. In support of his contention, he has placed one order of the Tribunal dated 20.03.2006 passed in OA 1931 of 2000 Sunil Chandra Pal &amp; Others –vs- State of West Bengal &amp; Others. Therefore, the counsel for the applicant has vehemently argued that the applicants should be regularised ignoring the non-</p>	

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	<p>fulfillment of 18 years of age or 5 years completion after 18 years of which criteria has stipulated in the circular of the department.</p> <p>Departmental Representative of the Land &amp; Land Reforms Department have vehemently objected and has submitted that regularisation is governed by the relevant scheme and in the instant case the relevant scheme was formulated by way of circular dated 17.03.97, 15.10.98 and 30.11.1999 in pursuance to the Hon'ble High Court Judgement dated 29.09.1993 and since in the circular dated 30.11.99, the criteria for absorption has been clearly stipulated as 18 years of age at the time of engagement as well as completion of 5 years after attaining 18 years of age and the said circular also considered by the Hon'ble High Court in WPST No.324 of 2012 Arup Kr. Sarkar -vs- State of West Bengal reported in 2014 SCC Online Calcutta 14312, wherein the Hon'ble High Court has considered both the circulars dated 30.11.99 with regard to the absorption of Tahasil Mohurrior read with Finance Department G.O. dated 06.11.1981 with regard to the Group D post and held that the circulars to be valid one. Therefore, the department has rightly rejected the claim of the applicants and the circular is also valid as the</p>	

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	<p>applicant do not fulfill the criteria of the scheme. Therefore, they are also not entitled to be absorbed.</p> <p>We have heard both the parties and perused the records as well as the judgement. It is noted that the applicant has basically prayed for absorption as Tahasil Mohurrior as per the scheme stipulated for the purpose of such absorption as per the judgement dated 29.09.93 passed in C.R.No.7592(W) of 1991 and in pursuance to such judgement, the Government has formulated a scheme vide their circular dated 15.10.1998 and further the criteria for absorption has been stipulated vide circular dated 30.11.1999 which was considered by the Hon'ble High Court in the case of Arup Kr. Sarkar (supra) holding inter alia;</p> <p>“Even if we accept the statements, which the Petitioner has annexed to the petition, which indicates that he worked between 1976 and 1984, the petitioner is not entitled to any relief. The 1999 Circular contemplates that a person who was recruited below the age of 18 years as a Tahasil Mohurrior must work for 5 years on completion of the age of 18 years as such if he is to be considered for absorption in Group D post. Now the petitioner in 1976</p>	

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	<p>was only 14 years of age. He continued to work till 1984. It is the petitioner's case that he was 22 years of age in 1984. However, he has not worked for more than 5 years after the completion of 18 years in 1980.</p> <p>The contention that the Rules of 1981 cannot be amended retrospectively is without any substance. The Rules of 1981 are Recruitment Rules for peon. These Rules are not Rules for recruitment or absorption of Tahasil Mohurrior. The only route to absorb Tahasil Mohurriors was the Circulars of 1979, 1998 and 1999. There is no question of any retrospective amendment of the 1981 Rules. The Circulars, which apply for the absorption of Tahasil Mohurriors, do not make any reference to the aforesaid Recruitment Rules. Thus, the submission of the learned Counsel, appearing for the Petitioner, is without any merit.</p> <p>Reliance has been placed on the judgement in the case of P. Mahendran v. State of Karnataka, reported in AIR 1990 SC 405 in support of his submission that the</p>	

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GM	<p>Rules must be held to be prospective. This decision has no application to the facts of this case.</p> <p>Looked at from any angle, the petitioner is not entitled to relief. We do not see any reason to interfere with the decision of the Tribunal.</p> <p>The petition is dismissed accordingly with no order as to costs.”</p> <p>From the above, it is clear that the circular of 1998 and 1999 with regard to absorption of Tahasil Mohurrior was considered by the Hon'ble High Court and they do not find any discrepancy in the said scheme and as admittedly the applicants are not fulfilling the criteria stipulated in those circulars. Therefore, in our considered opinion, the respondents have rightly rejected the claim of the applicants. Accordingly, the OA is <b>dismissed being devoid of merit.</b></p> <p><b>P. RAMESH KUMAR</b> <b>MEMBER(A)</b></p> <p><b>URMITA DATTA (SEN)</b> <b>MEMBER(J)</b></p>	