

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. **OA-124 of 2019**

Tapan Kumar Mondal

Versus

The State of West Bengal & Ors.

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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04 <u>22/08/2019</u>	<p>For the Applicant : Mr. D. Koley, Ld. Advocate.</p> <p>For the State Respondent : Mr. S. Bhattacharyya, Depttl. Representative.</p> <p>For the A.G., W.B. : Mr. B. Mitra, Depttl. Representative.</p> <p>The applicant has prayed for direction upon the respondents for granting him pension and other retirement benefits in terms of West Bengal Services (death-cum-retirement benefits) Rules, 1971 (in short, the D.C.R.B. Rules, 1971) on the basis of representation submitted by the applicant on January 17, 2019.</p> <p>The applicant worked as Tahashil Muhorrier in Shyampur-II, L.R. Circle under the respondent no. 5, Block Land & Land Reforms Officer, Shyampur-II during the period from 1979 to 1984. The service of the applicant did not continue after the year 1984. After long lapse of time, the State Government took a decision for creating some permanent posts for absorption of former Tahashil Muhorriers in the said posts. In the year 1999, the applicant was asked to produce testimonials regarding his experience as Tahashil Muhorrier and testimonials in connection with his educational qualification. However, no letter of appointment was issued in favour of the applicant after scrutiny of the</p>	

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	<p>documents produced by the applicant before respondent no. 5 in the year 2000. The applicant approached the Tribunal by filing OA-209/2003 which was disposed of on August 07, 2003. Ultimately, the applicant was absorbed in the regular establishment on July 21, 2005 and retired from service on June 30, 2010 after rendering service in the regular establishment for a period of 4 years 11 months and 9 days. The applicant, thus, did not render qualifying service of 10 (ten) years for getting pension in terms of Rule 67 of the D.C.R.B. Rules, 1971.</p> <p>With the above factual matrix, Mr. Koley, Learned Counsel for the applicant contends that there was inordinate delay on the part of the state respondents in issuing the order of absorption of the applicant in the permanent establishment and thereby the applicant was deprived of rendering requisite period of service for getting pension. We have also heard Mr. Bhattacharyya, the Departmental Representative of the state respondents and Mr. Mitra, the Departmental Representative of the respondent A.G., W.B., who have categorically submitted that the applicant is not entitled to get pension for not rendering 10 (ten) years of qualifying service in regular establishment.</p> <p>What transpires from the materials on record is</p>	

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	<p>that the applicant previously approached this Tribunal praying for pension and other retirement benefits by filing OA-1067/2012, which was dismissed on December 10, 2012. The applicant challenged the said order of the Tribunal before the Division Bench of the Hon'ble High Court by filing W.P.S.T. No. 52/2013, but the said Writ Application was also disposed of on March 25, 2013 by making observation that the competent authority will consider the application, if any, submitted by the applicant for granting him benefit of pension by relaxation of the rules. Nothing is on record to indicate that the applicant submitted any application before the competent authority for relaxation of the rules in order to get pension on condonation of shortfall of qualifying service for grant of pension. On the contrary, we find that the applicant approached this Tribunal for the second time by filing OA-472/2017 which was again disposed of on August 29, 2017 by directing the Principal Secretary to the Government of West Bengal, Department of Land & Land Reforms to take a decision in connection with grant of pension to the applicant on the basis of application of the present applicant. The reasoned order passed by the Principal Secretary to the Government of West Bengal, Department of Land & Land Reforms is annexed to the reply submitted by the respondent no. 7. It appears from the said reasoned order that the delay in issuing order of appointment for</p>	

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Csm	<p>absorption of the applicant in the regular establishment cannot be solely attributed to the state respondents. It also appears from the said reasoned order that the applicant could not have rendered qualifying service for 10 (ten) years had he been appointed immediately after passing of the order by the Tribunal on August 07, 2003. In view of our above observation, we cannot persuade ourselves to hold that the applicant is entitled to get pension by condonation of shortfall of about 5 (five) years in qualifying service for grant of pension. As a result, the original application is dismissed.</p> <p>Let a Plain Copy of the order be supplied to all the parties.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	