

**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 1298 of 2014.

**BYOMKESH PAIRA – VS- THE STATE OF W.B. & 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>13 28.8.2018.</p>	<p>For the Applicant : Mrs. S. Mitra, Advocate.</p> <p>For the Respondent Nos. 2,3 &amp; 4 : Mr. A. Dutta, Mrs. R. Sarkar, Departmental Representatives.</p> <p>In this application, the applicant, who was initially appointed as Tahasildar on 4<sup>th</sup> February, 1975 and had continued till 30<sup>th</sup> June, 1984 and thereafter absorbed in the post of “Bhumi Sahayak” and posted in the office of the Sub Divisional Land and Land Reforms Officer with effect from 1<sup>st</sup> July, 1984 and superannuated on 30<sup>th</sup> September, 2006, has prayed for a direction upon the respondents to consider his case to provide pensionery benefit from the date being appointed as Tasildar, that is from 4<sup>th</sup> February, 1975.</p> <p>Mrs. S. Mitra, learned advocate appearing on behalf of the applicant, relying on the judgements of the Hon'ble High Court in W.P.S.T. 184 of 2010 -Haradhan Mahato –Vs- State of W.B. &amp; Ors and in W.P.S.T. 380 of 2013 – Rameswar Tudu – versus- State, has submitted that direction may be issued for calculating the pension considering service from 4<sup>th</sup> February, 1975 that is the</p>	

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	<p>date on which he was initially appointed as Tahasildar.</p> <p>Mr. A. Dutta and Mrs. R. Sarkar, Departmental representatives on behalf of the Respondent nos. 2, 3 and 4 submit that the judgements do not help the cause of the applicant as therein as the applicants were not getting usual pension, the Hon'ble High Court had directed to count the past service for determining qualifying service for pension. In the instant case, the applicant is getting usual pension.</p> <p>In reply, Mrs. Mitra submits that though the applicant is getting usual pension, his pension may be granted taking note that he was initially appointed on 4<sup>th</sup> February, 1975 before absorption in 1984.</p> <p>Heard Mrs. Mitra, and Mr. Dutta. There is no denying the fact that the applicant is getting "usual pension". The judgement in Haradhan Mahato (supra) does not further the case of the applicant as evident from the judgement itself, the relevant portion of which runs thus :-</p> <p><i>".....The Learned Tribunal also held that the petitioner herein is not eligible to claim usual pension and gratuity since the said petitioner did not serve the prescribed minimum qualifying period...."</i></p>	

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	<p>The High Court while setting aside the judgement of the Tribunal ultimately held :-</p> <p><i>“.....For the aforementioned reasons, the benefit of usual pension and gratuity should not be denied to the petitioner on the alleged plea that the said petitioner did not complete ten years service before retirement.</i></p> <p><i>In the aforesaid circumstances, we are unable to approve the decision of the learned Tribunal and, therefore, we set aside the same. The Respondent Authorities are directed to grant the usual pension and gratuity to the petitioner treating the said petitioner in permanent service at least for a period of ten years before retirement on attaining the age of superannuation.....”.</i></p> <p>The judgement in Rameshwar Tudu (supra) also does not help the case of the applicant as therein it was held that “ ....We have held that under the DCRB Rules, the service rendered by an employee on a temporary basis continuously, prior to his being conferred with the permanent status must be taken into account for computing qualifying service for payment of pension.....”.</p> <p>In the instant case, after taking into account the period of qualifying service admittedly the applicant</p>	

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Skg.	<p>is getting "usual pension". Therefore, the two judgements are not applicable to the facts of the case. Hence, no order is passed on this application. The application is disposed of.</p> <p>(Subesh Kumar Das) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	