

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 222 of 2016.
 KAMRUL KARIM -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>14 1.3.2019.</p>	<p>For the Applicant : Mr. M. Karim, Advocate.</p> <p>For the State Respondent : Mr. S.N. Ray, Advocate.</p> <p>For the Principal Accountant : Mr. B. Mitra, General (A & E) Departmental Representative. West Bengal.</p> <p>In this application the applicant has challenged the order contained in the memo dated 31st August, 2015 issued by the Director of Health Services, West Bengal – the respondent no. 2 declining to grant pension holding that the period of past contractual service cannot be counted for granting pension.</p> <p>Mr. M. Karim, learned advocate appearing on behalf of the applicant relying on the statements in the original application and in the rejoinder and referring to the reply filed by the State submits that by an order dated 11th October, 1999 issued by the District Magistrate and Chief Project Manager, SHSDP-II, South 24-Parganas the applicant was appointed on contractual basis in the post of ECG Technician at the project hospitals under the State Health Systems Development</p>	

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	<p>Project-II, South 24-Parganas of Health and Family Welfare Department, Government of West Bengal on consolidated monthly remuneration of Rs. 5,025/- per month and was posted at Diamond Harbour Sub Division Hospital. Consequently, he had worked continuously from 15th November, 1999 till 16th May, 2007 on contractual basis. Thereafter, pursuant to the order dated 5th March, 2008 issued by the Director of Health Services, West Bengal – respondent no. 2, his appointment was regularised with effect from 17th May, 2007. Submission is as the applicant had worked uninterruptedly on contractual basis from 15th November, 1999 prior to his regularisation and as the High Court in a judgement passed on 11th November, 2010 in W.P.S.T. 184 of 2010 Haradhan Mahato –versus- State of West Bengal and others had directed to grant appropriate reliefs as the applicant therein had performed uninterrupted service, appropriate order may be passed by setting aside the impugned order contained in the memo dated 31st August, 2015 appearing at page 52 of the application.</p> <p style="text-align: right;">Mr. S.N. Ray, learned advocate appearing on</p>	

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	<p>behalf of the State respondent submits that the impugned memo issued by the Director of Health Services is just and proper.</p> <p>Mr. B. Mitra, the Departmental Representative adopts the submission of Mr. Ray.</p> <p>Heard Mr. Karim, Mr. Ray and Mr. Mitra.</p> <p>Perused the impugned order contained in the memo dated 31st August, 2015. Admittedly the applicant pursuant to the order dated 11th March, 1999 was appointed on contractual basis and had rendered service from 5th November, 1999 to 16th May, 2007. Significantly by order dated 5th March, 2008 issued by the Director of Health Services, the service of the applicant was regularised with effect from 17th May, 2007. The relevant portion of the said order is as under :-</p> <p><i>“In pursuance of order No. HF/O/MS/697/W-64/06 dated 26th December, 2007 of Deptt of Health & Family Welfare, Govt. of W.B. , the services of personnel (Annexure “A” and Annexure “B”) who were appointed on contractual basis and are still working , are hereby regularised w.e.f. 17.05.2007 in the post created in terms of G.O. No. HF/O/MS/697/W-64/06 dated 26th</i></p>	

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	<p><i>December, 2007 under Medical Technologist Cadre and temporarily posted as Medical Technologist (Radio Diagnostic) as at Annexure "A" and Medical Technologist (E.C.G.) as at Annexure "B", to act until further order, at the places as noted against their names....".</i></p> <p>.....</p> <p><i>"83-396) Sri Kamrul Karim, MT (ECG)....."</i></p> <p>It appears that the name of the applicant appears in the said order. Subsequently, the applicant had superannuated on 31st December, 2015. The question is whether the authority should take into account the service provided by the applicant on contractual basis from 15th November, 1999 till 16th May, 2007 for calculation of qualifying service of ten years for the purpose of pension. Since we find that the High Court by judgement dated 11th November, 2010 passed in W.P.S.T. 184 of 2010, Haradhan Mahato –versus-State of West Bengal had directed the authorities to go into the question whether the applicant therein had performed uninterrupted continuous service prior to the joining the regular establishment, considering such fact the Director of Health Services, West Bengal – the respondent no. 2 is</p>	

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Skg.	<p>directed to examine the matter afresh by passing a reasoned order to be communicated to the applicant within twelve weeks from the date of furnishing a copy of the certified copy of this order after giving an opportunity of hearing and after verifying the records and taking into consideration the judgement passed by the High Court in W.P.S.T. 184 of 2010 in Haradhan Mahato –versus-State of West Bengal. Accordingly, the order contained in the impugned memo dated 31st August, 2015 issued by the Director of Health Services, West Bengal – the respondent no. 2, appearing at page 52 of the original application, is hereby set aside and quashed. The application is allowed.</p> <p>(Subesh Kumar Das) Member(A).</p>	<p>(Soumitra Pal) Chairman.</p>

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