

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member (J)
& The Hon'ble Dr. Subesh Kumar Das, Member (A)
Case No – OA 305 OF 2020

Sk Nur Mohammad Vs The State of West Bengal & 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
02 <hr/> 09.12.2020	<p><i>For the Applicant : Mr. P. Halder, Learned Advocate.</i></p> <p><i>For the State Respondents : Mrs. S. Agarwal, Learned Advocate.</i></p> <p><i>For A.G.(A&E), W.B. : Mr. B. Mitra, Departmental Representative.</i></p> <p>Counsel for the applicant has fairly submitted that he does not want to press the prayer for leave salary in prayer 9(a). Therefore, the prayer of leave salary may be expunged from the prayer of 9(a).</p> <p>Leave is granted to the applicant to make appropriate correction in the prayer portion of the original application.</p> <p>During the course of the hearing, the applicant has prayed for following interim order :</p> <p><i>“Pending disposal of the instant application, the authority concerned may be directed to proceed proper fixation of pay of the applicant, which has already been taken after acknowledging the last representation of the applicant so that the applicant may survive in this heard days forthwith.”</i></p> <p>Counsel for the respondents has prayed for some time to file reply. Counsel for the respondents has raised the issue of limitation as the applicant retired in the year 2006 and approached the department only in 2020 by</p>	

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Sk Nur Mohammad

Form No.

..

Vs.

The State of West Bengal & Ors.

Case No. OA 305 OF 2020

.....

representation dated 14.5.2020 (annexure A4). Counsel for the applicant has submitted that since this a case of wrong fixation challenging the cause of action.

Counsel for the applicant has submitted that since this is settled law, there is no need of filing for any application for condonation of delay. Admittedly, the applicant retired in the year 2006 whereas he approached the department on 14.5.2020. Thereafter, he has filed the instant application on 09.09.2020 only. However, the applicant neither has given any application nor has prayed for any condonation of delay by way of filing any application. The counsel for the applicant has only referred one judgment and submitted that the delay is automatically condonable, which is not accepted by us.

The respondents are directed to file reply within a period of 4(four) weeks and rejoinder, if any, may be filed within 2(two) weeks thereafter.

List the matter under the heading **“Reply/rejoinder”** on **24.03.2021**.

(S.K.DAS)
Member (A)

URMITA DATTA (SEN)
Member (J)

H.S

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It has been wrongly listed today under the supplementary list though the original application is supposed to be listed under new application as per the Registry note. Therefore, let the matter be treated as part of the original list under new application of item no. 2a.