

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**The Hon'ble JUSTICE RANJIT KUMAR BAG  
& The Hon'ble DR. SUBESH KUMAR DAS**

**Case No – OA 309 OF 2017**

*Pranab Kumar Sarkar* 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
<p style="text-align: center;">09 <hr/>28.03.2019</p>	<p><i>For the Applicant : Mr. P.K. Chatterjee, Learned Advocate.</i></p> <p><i>For the State Respondents : Mr. S. Bhattacharyya, Departmental Representative.</i></p> <p><i>For A.G.(A&amp;E), W.B. : Mr. B. Mitra, Departmental Representative.</i></p> <p><i>The applicant has prayed for direction upon the respondents for granting pension by way of consideration of the representation submitted by the applicant on January 24, 2017.</i></p> <p><i>The contention of the applicant is that he worked as Tahasil Mohurrior at Rani Nagar, 2 in the District of Murshidabad from January 01, 1976 to March 01, 1985. The applicant could not continue in service due to abolition of the post and had to approach the court for getting ultimate appointment as group 'D' employee on July 26, 2007. The applicant joined in the group 'D' post on July 31, 2007 and retired from the said post on January 31, 2008.</i></p> <p><i>With the above factual matrix, Learned Counsel for the applicant, contends that the past service rendered by the applicant during the period from January 01, 1976 to</i></p>	

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*March 01, 1985 should be taken into consideration for computation of qualifying service for grant of pension to the applicant. By relying on the judgment in “Sk. Golam Zikria v. State of West Bengal & Ors” (W.P.S.T 81 of 2014 disposed of on February 16, 2015) and judgment in “Pastu Deb Singha v. State of West Bengal & Ors” and other connected matters reported in 2014(4) CHN (CAL) 32, Learned Counsel for the applicant submits that the past service rendered by the applicant not only be counted for grant of pension, but the shortfall of less than six months in qualifying service for grant of pension need to be condoned by invoking the provisions of Rule 36 of West Bengal Services (Death-Cum-Retirement Benefit) Rules, 1971 (in short DCRB Rules of 1971). On the other hand, the departmental representative of the state respondents submits that the applicant served as seasonal worker for a period of four months in one calendar year for discharging the duty as Tahasil Mohurrior during the period from January 01, 1976 to March 10, 1985 and for discontinuation of the said service for almost 22 years before joining in the permanent group ‘D’ post and as such the said service of the applicant cannot be construed as continuous service for counting of past service of the applicant for grant of pension.*

*Having heard both parties, we find that the applicant rendered service as Tahasil Mohurrior during the period*

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*from January 01, 1976 to March 01, 1985 and thereafter the service of the applicant was discontinued for abolition of the post. The applicant had to struggle and approach the court for getting appointment as Group D employee and thereby the applicant could render service as permanent Group D employee only during the period from July 31, 2007 to January 31, 2008. In “Pastu Deb Singha v. State of West Bengal & ors” (Supra) the Division Bench of the Hon’ble High Court dealt with the seasonal worker of Kangsabati Canal Division No. 1. The Divisional Bench of the Hon’ble High Court has observed in paragraph 6 of the judgment that the service rendered by an employee on a temporary basis continuously prior to conferring of permanent status on him must be taken in to consideration for computation of the period of qualifying service for grant of pension. It is also held by the Division Bench in the said judgment in paragraph 7 that the shortfall in qualifying service for grant of pension should be condoned up to 6 (six) months by invoking the provisions of Rule 36 of the DCRB Rules of 1971. In the present case, the applicant has miserably failed to establish that there was continuity of service of the applicant before his appointment as permanent Group D employee. That apart, in the present case, the shortfall in qualifying service for grant of pension is more than nine years. The facts of the present case are, thus, clearly*

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*distinguishable from the facts of “Pastu Deb Singha V. State of West Bengal” (Supra) and as such the ratio of the said reported case has manner of application in the facts of the present case.*

*In “Sk. Golam Zikria and Others” (supra), the Division Bench of the Hon’ble High Court dealt with the issue of condonation of deficiency in qualifying service for pension of an employee who rendered service for a period of nine years seven months and twenty three days. The Division Bench of the Hon’ble High Court directed the concerned authority to invoke the provisions of Rule 36 of the DCRB Rules, 1971 for condonation of deficiency of four months and seven days in qualifying service for grant of pension on consideration of long period of service of fourteen years rendered by him before his appointment in the permanent post. In the present case, we have already observed that there was no continuity of service of the applicant during the period from March 2, 1985 to July 30, 2007 and the applicant rendered service in a permanent post for about six months only. Naturally, facts of the present case are also different from the facts of “Sk. Golam Zikria” (supra) and thereby the ratio of the said reported case is not applicable in the present case.*

*In view of our above observation, we are constrained to hold that the applicant is not entitled to get pension in terms of the provisions of the DCRB Rules of*

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<p><i>H.S</i></p>	<p><i>1971.</i></p> <p><i>As a result, the original application is <b>dismissed</b>.</i></p> <p><i>The urgent Xerox certified copy of the order, if applied for, may be supplied to the parties on priority basis on compliance of all necessary formalities.</i></p> <p><b>( S.K.DAS)</b> <b>Member ( A)</b></p> <p><b>( R.K.BAG)</b> <b>Member (J)</b></p>	
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