

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 44 OF 2018

Sunil Kumar Bhattacharyya & Others 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
11 <hr/> 23.12.2019	<p><i>For the Applicants : Mr. R. Halder, Learned Advocate.</i></p> <p><i>For the Respondent : Mr. A. Dutta, Nos. 1,2,3,6 & 7 Mrs. R. Sarkar, Departmental Representatives.</i></p> <p><i>For the Respondent No. 4 : Mr. A.K. Das Sinha, Learned Advocate.</i></p> <p><i>For A.G. (A&E), W.B. : Mr. B. Mitra, Departmental Representative.</i></p> <p style="text-align: center;"><i>Mr. R. Halder, Learned Counsel for the applicants has not pressed for hearing of the applicant no. 1, Sunil Kumar Bhattacharyya who has already been granted the pension on condonation of short fall in qualifying service for grant of pension as reflected from the letter dated March 05, 2019 issued by the Additional Secretary to the Government of West Bengal, Department of Land and Land Reforms and Refugee Relief and Rehabilitatin to the District Land Reforms Officer, Purba Bardwan.</i></p> <p style="text-align: center;"><i>The applicant no. 2 Gadadhar Hati died during pendency of the original application and his legal heirs</i></p>	

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have been substituted on the ground that the cause of action for filing the original application still survives.

The applicants have prayed for direction upon the respondents for condonation of deficiency in qualifying service for grant of pension by invoking provisions of Rule 36 read with rule 4 of West Bengal Services (Death –cum-Retirement Benefit) Rules,1971 (in short, DCRB Rules, 1971).

The original applicant no. 2 Gadadhar Hati joined in Group-D post in the office of Revenue Inspector under Block Land and Land Reforms Officer, Matharupur II, in the District of South 24 Parganas on August 28, 1997 and retired from service on March 31, 2007. He rendered service for 9 years 7 months and 4 days.

The applicant no. 3, Basudeb Pal joined in the Group D post in the office of Revenue Inspector under Block and Land Reforms Officer, Basanti in the District of South 24 parganas on August 26, 1997. He retired from service on April 30, 2007. He rendered service for 9 years 8 months and 5 days.

Having heard Learned Counsel for the applicant, Learned Counsel for the respondent no. 4 and the departmental representative of the state respondents, we find that the qualifying service for grant of pension is

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10 years in terms of the provisions of Rule 67 of the DCRB Rules, 1971. The short fall in qualifying service for grant of pension to both the applicant no. 3 and the deceased applicant no. 2 (Godadhar Hati) is less than six months. Relying on the judgment and order passed by the Division Bench of the Hon'ble High Court in "Sk. Golam Zikria v State of West Bengal & Ors" (WPST 81 of 2014 decided on February 16, 2015), we would like to hold that the deficiency of less than 6 months in qualifying service for grant of pension may be condoned by the State Government by invoking the provisions of Rule 36 read with 4 Rule of the DCRB Rules, 1971. It is pertinent to point out that the decision of the Division Bench of the Hon'ble High Court passed in WPST 81 of 2014 was affirmed by the Hon'ble Supreme Court in SLP(c) No. 16532 of 2015.

The deceased petitioner no. 2, Gadadhar Hati submitted representation before respondent no. 2 on November 02, 2017 and the petitioner no. 3 Basudeb Pal submitted representation before the said respondent no. 2 on January 02, 2018 praying for condonation of short fall in qualifying service for grant of pension, but the said representations have not yet been disposed of by the respondent no. 2. Since the applicants have submitted representation praying for condonation of deficiency in

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qualifying service for grant of pension and since the state respondents have already granted relief on the similar circumstances in favour of the applicant no. 1, Sunil Kumar Bhattacharyya, we are of the view that the respondent no. 3 should take a decision by invoking the provision of Rule 36 read with Rule 4 of the DCRB Rules, 1971. However, the petitioners will not get arrears of pension and other retirement benefits, if any, beyond the period of three years prior to the filing of the present original application due to specific bar under law of limitation as laid down by the Hon'ble Supreme Court in "Union of India v. Tarsem Singh" reported in (2008) 8 SCC 648.

In view of our above findings, we direct the respondent no. 1, Principal Secretary to the Government of West Bengal, Department of Land and Land Reforms and Refugee Relief and Rehabilitation to condone short fall in qualifying service for grant of pension to the applicant no. 2, the deceased Gada Dhar Hati and the applicant no. 3, Basudeb Pal by invoking the provisions of Rule 36 read with Rule 4 of the DCRB Rules, 1971 on the basis of the representation submitted by the deceased applicant no. 2 on November 02, 2017 and applicant no. 3 on January 02, 2018 before the Director of Land Records and Surveys & Joint Land Reforms Commissioner,

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*Government of West Bengal within a period of 12 weeks
from the date of communication of the order.*

The original application is, thus, disposed of.

*Let a plain copy of the order be supplied to all the
parties.*

**(S.K.DAS)
Member (A)**

**(R.K.BAG)
Member (J)**

H.S