

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 45 OF 2018

Subhra Sadhu & 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 Respondents : Mr. A. Dutta, Mrs. R. Sarkar, Departmental Representatives.</i></p> <p><i>For A.G. (A&E), W.B. : Mr. B. Mitra, Departmental Representative.</i></p> <p style="text-align: center;"><i>The applicants have prayed for direction upon the respondents for counting of past service rendered by them before their appointment in Group D post for the purpose of computation of qualifying service for grant of pension and other consequential reliefs.</i></p> <p style="text-align: center;"><i>The applicant no. 1 joined in Group D post on October 09, 2007 and retired from service on May 31, 2014. The applicant no. 2 joined in Group D post on October 15, 2007 and retired from service on March 31, 2014. The applicant no. 3 joined in Group D post on October 15, 2007 and retired from service on September 30, 2012. The applicant no. 4 joined in Group D post on August 26, 1997 and retired from service on September 30, 2004. The applicant no. 1 rendered service in Group D post for a period of 6 years 7 months and 17 days. The</i></p>	

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applicant no. 2 rendered service in Group D post for 6 years 5 months and 16 days. The applicant no. 3 rendered service in Group D post for 4 years 11 months and 15 days. The applicant no. 4 rendered service in Group D post for 7 years 1 month and 5 days. The contention of the applicants is that they were engaged as Tahsil Mohurrir during the period from 1977 to 1984 before joining in the Group D post. The provisions of West Bengal Land Management Manual, 1977 (annexure R2 to Reply of the respondent no. 2) indicate that Tahsil Mohurrir were engaged for a period of 4 months in a calendar year on fixed monthly remuneration and payment of commission @ 3% on the collection of revenue. The issue for consideration of the Tribunal is whether the service rendered by the applicants as Tahsil Mohurrir long before their engagement as Group D employee will be counted for computation of qualifying period of service for grant of pension.

Relying on decision of 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, 2018), Learned Counsel for the applicants submits that the representation of the applicants should be considered by the concerned state respondents for counting of past service in order to condone the short fall in qualifying service for grant of pension. On perusal of

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the order passed by the Division Bench of the Hon'ble High Court in "Sk. Golam Zikria" (supra), we find that the Division Bench of the Hon'ble High Court has observed that the petitioner "Sk. Golam Zikria" rendered temporary service for long period of 14 years before absorption in the regular service from which he retired on attaining the age of superannuation. In the instant case, the applicants rendered the service of Tahsil Mohurrir as seasonal employee who rendered service for 4 months in a calendar year and as such the service rendered by the applicants long before their appointment in Group D post can never be construed as temporary service as it was in the case of "Sk. Golam Zikria". Moreover, no document is forthcoming before us that the applicants rendered temporary service continuously and uninterruptedly till the date of their appointment in Group D post and as such the ratio of "Sk. Golam Zikria" cannot be applicable in the facts of the present case.

The applicants rendered service for a period of 5 to 7 years in permanent Group 'D' post and the previous service rendered by them was not temporary service throughout the calendar year and the same was also not continuous and uninterrupted as revealed from the materials on record. Accordingly, the past service rendered by the applicants as Tahsil Mohurrir cannot be taken into consideration for computation of qualifying

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service for grant of pension. Nor can we persuade ourselves to give any direction to the state respondents for condonation of deficiency in qualifying service for grant of pension by invoking of provision of Rule 36 read with Rule 4 of West Bengal Services (Death-cum Retirement Benefits) Rules, 1971 as the deficiency of service for grant of pension is 2 to 4 years.

In view of our above observations, we do not find any merit in the present application and as such the present application is dismissed.

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