

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal (Chairman)****& The Hon'ble Dr.Subesh Kumar Das (Administrative Member)****Case No. OA – 445 OF 2014****GOPAL CHANDRA CHAKRABORTY Vs. THE STATE OF WEST BENGAL**

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;"><u>19</u> 05.10.18</p>	<p>For the Applicant : Mr.S.Agarwal Advocate</p> <p>For the Respondent : Mr.M.N.Roy Advocate</p> <p>In this application, the applicant, Ex-Clerk-Typist under the Assistant Jute Development Officer, Berhampur, Murshidabad, has prayed for a direction upon the respondents to disburse the service benefits along with consequential reliefs to be calculated from the date of his normal retirement from service, that is 31st March, 2014, as well as interest thereon by treating the applicant in service as clerk-cum-typist till 31st March 2004 by virtue of the fact that the resignation of the applicant was never accepted by the authority and consequently no release order was passed.</p> <p>It appears that the applicant had joined in service on 27th November, 1964. A tragic incident happened on 18th October, 1974. Thereafter, on 3rd March, 1975, he resigned from service. Thus he rendered service for a period of 10 years 3 months and 6 days. It appears from the annexure-J to the application that the applicant had</p>	

ORDER SHEET**GOPAL CHANDRA CHAKRABORTY**
.....

Form No.

Vs.**THE STATE OF WEST BENGAL & ORS.**
.....Case No. **OA - 445 OF 2014**

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>prayed for reinstatement. The said prayer was sent before the Director of Agriculture, West Bengal by the Principal Agriculture Officer, Murshidabad by letter dated 19th July, 1979 with a request to consider his case as the resignation was due to “unprecedented occurrence”. The Director by memo dated 22nd February, 2012 to the Secretary, Agriculture Department requested for sympathetic consideration. It is submitted by Mrs.S.Agarwal, learned advocate for the applicant that it appears from the memo. dated 22nd February, 2012, the Principal Agricultural Officer, Murshidabad by letter dated 19th July, 1979 had strongly recommended for reinstatement of the applicant in service as the doctor certified that he was quite fit. Submission is as recommendation was made, appropriate order may be passed directing continuance of the service of the applicant till his normal date of retirement, that is 31st March, 2004.</p> <p>Mr.S.N.Ray, learned advocate appearing on behalf of the respondents relying on the written reply submits that as it is evident from the memo. that the applicant had resigned from service on 3rd March, 1975</p>	

ORDER SHEET**GOPAL CHANDRA CHAKRABORTY**
.....

Form No.

Vs.**THE STATE OF WEST BENGAL & ORS.**
.....Case No. **OA - 445 OF 2014**

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>and in the year 1979 had prayed for reinstatement in service it shows he had resigned. Relying on paragraph 5 of the written reply it is submitted that since under the Rule 33 of the West Bengal Service (DCRB) Rules, 1971, resignation from service entails forfeiture of past service, there is no scope for availing any benefits. Moreover, assuming the contention of the applicant is correct, since the cause of action arose in late 1979 or early 1980s, as this application was filed on 3rd April, 2014, it is beyond the time prescribed for filing an application under Section 21 of the Administrative Tribunals Act, 1985.</p> <p>Heard learned advocates for the parties. Admittedly, the applicant had joined service on 27th November, 1964. On 8th October, 1974 a tragic incident occurred in his life. Thereafter, on 3rd March, 1975 he tendered resignation. It appears in 1979 he prayed for reinstatement in service which means that he had accepted his resignation. Though it appears from the memo. dated 22nd February, 2012 that the authority had strongly recommended for sympathetic consideration, however as the applicant had resigned, he is not entitled</p>	

ORDER SHEET**GOPAL CHANDRA CHAKRABORTY**
.....

Form No.

Vs.**THE STATE OF WEST BENGAL & ORS.**
.....Case No. **OA - 445 OF 2014**

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
BLR	<p>to pensionary benefits as resignation from service entails forfeiture of past service in terms of Rule 33 of West Bengal Service (DCRB) Rules, 1971 and there is no scope for availing any pensionary benefits from Government. Moreover, had the applicant applied before the appropriate forum earlier, matter would have been different. Since Section 21 of Administrative Tribunals Act, 1985 prescribes a period of limitation and as this application was filed on 3rd April, 2014, that is after more than 10 years from the actual date of retirement, that is 31st March, 2004, it is hit by the said provision. Since resignation from service is different from voluntary retirement and as voluntary retirement leads to forfeiture of past service, no order can be passed in this application. Hence, no order is passed on this application. The application is dismissed.</p> <p style="text-align: center;">(S.K.DAS) MEMBER(A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	