

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble Justice Ranjit Kumar Bag
&
The Hon'ble Dr. Subesh Kumar Das

Case No. OA - 636 of 2016

Helaram Ghosh & Ors.

Versus

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
<u>15</u> 10/04/2019	<p>For the Applicant : Mr. A.B. Mukherjee, Ld. Advocate.</p> <p>For the State Respondent : Mrs. S. Agarwal, Ld. Advocate.</p> <p>For the A.G., W.B. : Mr. B. Mitra, Depttl. Representative.</p> <p>Liberty is given to the applicant to amend the designation and address of the respondent no. 3 in the cause-title of the original application in course of this day.</p> <p>The applicants have prayed for direction upon the respondents for counting of their past service for grant of pensionary benefits.</p> <p>It appears from the materials on record that the applicant no. 1-Helaram Ghosh joined as Constable of Police on May 29, 2006 and retired from service on June 30, 2015 and thereby he rendered service for 9 years, 3 months and 29 days. The applicant no. 2-Biswanath Hait joined as Constable of Police on March 01, 2006 and retired from service on May 31, 2015 and thereby he rendered service for 9 years, 2 months and 30 days. The applicant no. 3-Gopal Chandra</p>	

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	<p>Mondal joined as Constable of Police on March 01, 2006 and retired from service on November 30, 2015 and thereby he rendered service for 9 years, 8 months and 29 days. The contention of all the applicants is that they rendered service as National Volunteer Force (N.V.F.) for prolonged period of time before their appointment in the post of Constable of Police. Learned Counsel for the applicants submits that the temporary service rendered by the applicants as N.V.F. must be taken into consideration for computation of qualifying service for pension. On the other hand, Learned Counsel representing the state respondents contends that the applicants did not discharge temporary service continuously before their appointment as Constable of Police and thereby the past service cannot be counted for computation of qualifying service for pension.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the provisions of Rule 67 of West Bengal Services (death-cum-retirement benefit) Rules, 1971 (in short, DCRB Rules of 1971) we find that a government employee will have to render service for minimum period of 10 years for getting pension. The temporary service rendered by a government employee continuously for 10 years or</p>	

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	<p>more may be counted for computation of qualifying service for pension and gratuity in terms of memorandum no. 2255-F dated March 22, 1973 issued by the Finance Department, Audit Branch, Government of West Bengal. In the instant case, there is nothing on record to indicate that the applicants rendered continuous temporary service before their appointment as Constable of Police and as such we are unable to accept the contention made on behalf of the applicants for counting of past service before appointment to the post of Constable of Police for computation of qualifying service for pension. The applicant no. 1 and the applicant no. 2 rendered service for 9 years, 3 months 29 days and 9 years, 2 months 30 days respectively. The shortfall in qualifying service for pension of the applicant no. 1 and the applicant no. 2 is more than six months and as such the shortfall in qualifying service for pension of those applicants cannot be condoned by the State Government by invoking provisions of Rule 36 of the DCRB Rules of 1971.</p> <p>The applicant no. 3 rendered total period of service for 9 years, 8 months and 29 days and as such the deficiency in the qualifying service for pension is less than six months. The deficiency for less than six</p>	

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Csm	<p>months in qualifying service for pension can be condoned by the State Government by invoking the provisions of Rule 36 of the DCRB Rules of 1971.</p> <p>In view of our above observation, we direct the respondent no. 3, Principal Secretary to the Government of West Bengal, Department of Home (Police), Nabanna to consider for condonation of deficiency of less than six months in qualifying service for pension of the applicant no. 3-Gopal Chandra Mondal by invoking the provisions of Rule 36 of the DCRB Rules of 1971 within a period of 12 (twelve) weeks from the date of communication of the order and take necessary follow up action within a period of 08 (eight) weeks thereafter. The prayer of the applicant no. 1 and the prayer of the applicant no. 2 are rejected. The original application, thus, stands disposed of.</p> <p>Let a Plain Copy of the order be supplied to both parties.</p> <p style="text-align: center;">S. K. DAS MEMBER(A)</p> <p style="text-align: center;">R. K. BAG MEMBER(J)</p>	