

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Mrs. Urmita Datta (Sen), Member(J)

The Hon'ble Mr. P. Ramesh Kumar, Member (A)

Case No – OA-77 of 2018.Mithu Basak. Vs The State of West Bengal & Others.

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>03</p> <hr/> <p>03/10/2018</p>	<p>For the Applicant : Mr. A. Sikdar, Advocate.</p> <p>For the State Respondents: N o n e</p> <p><i>The instant application has been filed praying for following relief;</i></p> <p>a) <i>The respondent authorities specially the respondent No.2 be directed to rescind/ cancel/ forbear/ set-aside/ quash the impugned order dated 18.11.2014 forthwith being Annexure "G" to this application.</i></p> <p>b) <i>The respondent authorities concerned specially the respondent No.2 ought to be directed to offer compassionate appointment to the applicant forthwith according to her qualification in Health Department in the District of Dakshin Dinajpur.</i></p> <p>c) <i>An appropriate order/direction directing the respondents each of them, their servants and subordinates to call for the records of this case.</i></p> <p>d) <i>Such further order or orders, direction or directions as this Hon'ble Tribunal may deem</i></p>	

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	<p><i>fit and proper.”</i></p> <p><i>As per the applicant, his father died in harness on 08.07.2009. Thereafter. Mother of the applicant made a prayer of compassionate appointment in favour of the applicant through proper channel on 04.11.2009(Annexure A). Subsequently, the applicant was provided with a proforma application format on 04.11.2009, which he submitted before the respondent No.4 on 04.11.2009 (Annexure B). Thereafter, the Chief Medical Officer of Health, Dakshin Dinajpur vide his Memo dated 21.12.11 had forwarded all the documents along with the proforma application as well as three-men enquiry report (Annexure F) to the Joint Director of Health Services (Personnel), West Bengal. However, vide order dated 18.11.2014 (Annexure G) the claim of the application was rejected on the ground that the applicant had submitted her application in prescribed proforma on 21.12.11 that is after a lapse of more than two years. However, the Chief Medical Officer of Health, Dakshin Dinajpur vide his memo No.1309 dated 24.04.15 had communicated that by way of clerical mistake date of application was wrongly inserted as 21.12.2011 instead of application dated 04.11.2009. In view of the above, the applicant also</i></p>	

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	<p><i>made representation before the Director of Health Services, West Bengal for re-consideration of his claim but with no effect. Being aggrieved with he has filed the instant application.</i></p> <p><i>It is noted that on the earlier two occasions none appeared for the respondents. The Registry was directed to send the copy of this order to the respondent No.2 for their presence and making submissions in this regard and the Registry vide their communication dated 02.08.18 had communicated the said order to the respondent no.2 which was received by them on 09.08.2018. Even then none appeared for the respondents. In view of the above, we have heard the counsel for the applicant and perused the records. During the course of hearing, the counsel for the applicant has placed one order dated 23.12.2015 passed in OA 480 of 2015 prayed for extension of the benefit of the same order. We have heard the counsel and perused the records as well as order passed by our Bench. On the perusal of the aforesaid order dated 20.03.2015 it is noted that the aforesaid order squarely applicable in the instant case. As the respondents themselves have clarified the clerical mistake done by the department which has not been denied or controverted by the respondents</i></p>	

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GM	<p><i>either by way of filing reply or even by way of making submissions through their representative though the respondents have already received the copy of the order along with the petition. In view of the above, we are constrained to hold that as the respondents themselves had admitted their mistake vide Memo No.1309 dated 24.04.15, the order dated 18.11.2014 is quashed, set aside and the matter is remanded back to the respondent No.1 to consider the claim of the applicant as per the rules and to pass a reasoned and speaking order within a period of eight weeks from the date of receipt of the order taking into consideration their own communication dated 24.04.15. Accordingly, OA is disposed of with the above observation and direction with no order as to cost.</i></p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	