

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

**Hon'ble Justice Soumitra Pal, Hon'ble Chairman.**  
**& Hon'ble Dr. Subesh Kumar Das, Administrative Member.**

CASE No. OA 804 of 2017.

SRI RABINDRA NATH DEYASHI -Vs- THE STATE OF W.B. & 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
<p>12</p> <hr/> <p>22.4.2019.</p>	<p>For the Applicant : Mrs. S. Agarwal, Advocate.</p> <p>For the State Respondent : Mr. A. Datta, Departmental Representative, Land &amp; Land Reforms Department.</p> <p>Rabindra Nath Deyashi, the applicant, was a seasonal worker since 1975. Pursuant to the order of the State, he was absorbed in the permanent post on 14<sup>th</sup> October, 2007. Thereafter he had superannuated on 31<sup>st</sup> October, 2016. The applicant, in this application, has prayed for a direction upon the State respondents to release pension by condoning the shortfall of service in view of the order of the Tribunal dated 14<sup>th</sup> July, 2007 passed in O.A. 614 of 2005 (Rabindra Nath Deyashi –Vs- State of West Bengal &amp; Ors).</p> <p>Mrs. S. Agarwal, learned advocate for the applicant relying on the statements in the application and in the rejoinder and relying on the judgement passed in WPST No. 532 of 2010 Nemai Ch. Chatterjee &amp; Others – vs- State of West Bengal &amp; Others, in OA 1431 of 2014 Smt. Sambari Sardar-Vs- The State of West Bengal &amp; Others and in OA 910 of 2016 Kishori Mohan Mahato – Vs- The State of West Bengal &amp; Ors has submitted that</p>	

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	<p>since the applicant was absorbed in the service after rendering temporary, uninterrupted and continuous service prior to his joining the regular establishment on 14<sup>th</sup> October, 2007 and as he has qualified for pension, appropriate order may be passed.</p> <p>Mr. A. Datta, the departmental representative appearing on behalf of the respondent submits that since appointment was on condition that his past service will not be counted, the applicant is not entitled to the reliefs as prayed for. In this regard reliance has been placed on the judgement passed on 3<sup>rd</sup> March, 2011 in W.P.S.T. No. 22 of 2011 Krishna Das Gupta –Vs- State of West Bengal &amp; Ors.</p> <p>Having heard Mrs. Agarwal and Mr. Datta and considering the facts and circumstances, since we find that the applicant was absorbed in the permanent service on 14<sup>th</sup> October, 2007 and had superannuated on 31<sup>st</sup> October, 2016, that is after having worked for nine years, five months and sixteen days, this application is disposed of by directing the Secretary, Land and Land Reforms Department, Government of West Bengal to pass a reasoned order, to be communicated to the parties</p>	

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Skg.	<p>within twelve weeks from the date of presentation of a copy of this order, after giving an opportunity of hearing to the applicant and after perusing the records and after being satisfied that the applicant had worked uninterruptedly and continuously for the purpose of qualifying service and consequent payment of pension, provided that service is followed immediately and without any break by permanent service and after considering the principles of law laid down in the judgements in Nemaï Ch. Chatterjee &amp; Others (supra), Smt. Sambari Sardar (supra) and Kishori Mohan Mahato (supra). The judgement passed in Krishna Das Gupta (supra) is not applicable to the facts of the case as therein the issue was regarding claim of appointment with retrospective effect and seniority.</p> <p>(Subesh Kumar Das) Member(A).</p> <p>(Soumitra Pal) Chairman.</p>	

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