

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 - 829 OF 2019

SRI MADAN MOHAN MAITY 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 style="text-align: center;"><u>04</u> 11.02.2020</p>	<p>For the Applicant : Mr.U.K.Bhattacharya Mr.K.Mishra Advocates</p> <p>For the Respondents : Mr.A.Datta (Departmental representative)</p> <p>In this application, Madan Mohan Maity, a casual worker/Tahasil Mohury from 1976 to 1984 and thereafter absorbed as Group-'D' staff on 21st April, 2011 and had superannuated on 29th July, 2016, has prayed for certain reliefs, the relevant portion of which is as under:</p> <p style="text-align: center;">“(ii) The impugned Memo No. 1295/Jela/Bhumi/Jhargram/2018 dated 04.12.2018 may be quashed and set aside.</p> <p style="text-align: center;">(ii) The concerned respondents may be directed by this Hon'ble Tribunal to grant and pay the monthly pension with arrear computing the qualifying service of the petitioner after including the service period as casual worker from 01.01.1976 to</p>	

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	<p>1984 with the service rendered by the petitioner as approved Group 'D' staff in regular Government Establishment for the period 21.04.2011 to 29.07.2016 in the interest of justice.</p> <p>iv) The concerned respondents may be directed by this Hon'ble Tribunal to condone the deficiency in service period for computation of qualifying service of 10 years for payment of minimum monthly pension.</p> <p>v) The respondent may be directed by this Hon'ble Tribunal to grant and pay the monthly pension with arrear after consideration and disposal of the representation dated 22.10.2018 submitted by the petitioner."</p> <p>After the matter was admitted, directions were issued to file reply and rejoinder. Reply and rejoinder have been filed and are on record.</p>	

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	<p>Mr.U.K.Bhattacharya, learned advocate appearing on behalf of the applicant submits that as the applicant worked as casual worker/Tahasil Mohury from 1976 to 1984 and thereafter pursuant to the order of the Hon'ble High Court had been absorbed as Group-'D' staff in regular Government establishment and had worked from 21st April, 2011 till 29th July, 2016 when he superannuated, and thus had served for more than 10 years, order may be passed quashing the memo. dated 4th December, 2018 issued by the Additional District Magistrate and the District Land and Land Reforms Officer, Jhargram, the respondent no. 2(e), appearing at page 74 of the application, denying the pension on the ground that the period of service was less than 10 years. Since the said order was passed by the respondent no. 2(e) without giving the applicant an opportunity of hearing and to furnish relevant documents in support of the claim, there was violation of the principles of natural justice. Moreover, as the order is cryptic, it may be set aside. Submission is the respondent no. 2(e) has no jurisdiction to decide the issue and it is for the Government to take a decision in the matter.</p>	

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	<p>Mr.A.Datta, the Departmental representative, appearing for all the respondents submits that since the applicant after being absorbed as Group-'D' staff had worked from 21st April, 2011 to 29th July, 2016 and there was no continuity of service after 1984, the impugned memo dated 4th December, 2018 is just and proper. On the question of jurisdiction submission is as the Additional District Magistrate and District Land and Land Reforms Officer, Jhargram, the respondent no. 2(e) is the authority to sanction pension, the said respondent had the jurisdiction to decide the issue.</p> <p>Heard Mr.U.K.Bhattacharya, learned advocate for the applicant and Mr.A.Datta, the Departmental representative.</p> <p>So far as the jurisdiction of the Additional District Magistrate and District Land and Land Reforms Officer, Jhargram, the respondent no. 2(e) is concerned, since we find the said respondent is the pension sanctioning authority, we are of the view that it was within his jurisdiction to decide the issue. That apart, the learned advocate for the applicant could not</p>	

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BLR	<p>refer to any provision either in the statute or in the rules to demonstrate that the said respondent lacks jurisdiction, save and except he has merely referred to Article 166 of the Constitution of India. However, since we find that the order contained in the memo. dated 4th December, 2018, appearing at page 74 of the application, was passed without giving an opportunity of hearing to the applicant, it was in violation of the principles of natural justice. Therefore, the order contained in the memo. dated 4th December, 2018 is set aside and quashed. The application is allowed. Accordingly, the Additional District Magistrate and District Land and Land Reforms Officer, Jhargram, the respondent no. 2(e) shall dispose of the matter regarding grant of pension to the applicant by passing a reasoned order to be communicated to the parties, within fifteen weeks from the date of presentation of a copy of this order after giving an opportunity of hearing and after verifying the records and after considering the relevant circulars, notifications and judgements, which may be relied on by the applicant.</p> <p style="text-align: center;">(S.K.DAS) MEMBER (A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	