

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 912 of 2016.

RENUKA MALI – VS- 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
<p>9 14.1.2019.</p>	<p>For the Applicant : Mr. B. Chakrabarti, Mrs. S. Agarwal, Advocates.</p> <p>For the State Respondent : Mr. A. Datta, Mr. A. De, Departmental Representatives.</p> <p>In this application Renuka Mali, – the applicant, has prayed for the following reliefs :-</p> <p><i>“a) Order be issued directing the respondents to treat appointment of the applicant to be operative from May 1995 in terms of the order no. 3184/8487 dated 16th/18th May, 1995 passed by the Deputy Secretary (I), Board of Revenue, Government of West Bengal. An order be passed for grant of all service benefits including pay, seniority and other attendant benefits from May, 1995.</i></p> <p><i>b) An order be issued directing the respondents and each of them to grant pension including arrear of pension as admissible to the applicant after counting her service from May, 1995 to till date of her retirement on 30.06.2007.</i></p> <p><i>c) Respondents be directed to transmit and certify all records pertaining to this case before this Hon'ble Tribunal.</i></p>	

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	<p>d) <i>Any further order/orders as this Hon'ble Tribunal may deem fit and proper.</i></p> <p>e) <i>Costs."</i></p> <p>It appears from the application that Maninandranath Mali , the husband of the applicant worked as Peskar in the Settlement Office in Murshidbad-Birbhum under the Government of West Bengal and had died in harness on 14th September, 1983. After the death of the husband, the applicant, applied on 7th October, 1983 praying for payment of dues as payable to the widow of a Government employee dying in harness and also applied for appointment to a post on compassionate ground as per the policy existing at that material point of time. The applicant had made representation for payment of dues. As stated in the application having failed to get payment of the legitimate dues and appointment on compassionate ground, she filed a writ petition, being C.O. No. 619(W) of 1986, wherein the learned single Judge directed the State respondent to make payment of dues as admissible under the law but declined to pass an order for appointment on compassionate ground. Being aggrieved, the applicant</p>	

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	<p>filed an appeal ,being F.M.A.T. 249 of 1986, before the Division Bench, which was disposed of by an order dated 10th February, 1986 directing the respondents to consider the application of the petitioner for appointment on compassionate ground in terms of the Government circular dated 17th October, 1977 within one month from the date of communication of the order. Since pursuant to the order, no action was taken by the State respondent, an application for contempt was filed. Thereafter, the State authorities issued an appointment letter dated 16th March, 1995 to Amar Chandra Mali, the younger brother of late Maninandranath Mali, to the post of Lower Division Clerk. Having come to know about the contempt application, the Deputy Secretary, Board of Revenue by communication dated 3rd April, 1995 informed the concerned District Land and Land Reforms Officer that the applicant, being the widow of the deceased Government employee, be paid the dues and directed to consider her appointment on compassionate ground. Thereafter the applicant having no alternative filed a writ petition being C.O. No. 8167(W) of 1995 challenging the illegal appointment of Amar Chandra Mali</p>	

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	<p>on compassionate ground. As evident from the application, the appointment of Amar Chandra Mali was cancelled by the authorities and the applicant became entitled for appointment. Subsequently the applicant had moved an application, being O.A. No. 242 of 1997. However no order was passed due to the pendency of the contempt application. Thereafter the applicant moved an application, being W.P.S.T. No. 144 of 1997 before the High Court, Calcutta. By order dated 11th February, 1998 the High Court directed the respondent authority to implement the decision dated 16/18th May, 1995 to appoint the applicant on compassionate ground instead of Amar Chandra Mali. In spite of the said order passed by the High Court on 11th February, 1998, as stated in the application, she was made to wait for one year and seven months and ultimately she was appointed on 1st October, 1999. Thereafter she served about eight years and had retired from Government service on 30th June, 2007. It appears that the applicant had made an application for pension against the service rendered by her. The S.R.O.-II & D.D.O. to S.D.L. & L.R.O., Sadar, Suri, Birbhum in a communication under memo</p>	

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	<p>dated 22nd August, 2007 to the Treasury Officer, Birbhum Treasury-II, Suri Birbhum intimated that as she did not complete ten years of service, she was not entitled to pension and might be entitled to family pension with effect from 1st July, 2007. The relevant portion of the said intimation, appearing at page 25 of the application, is as under :-</p> <p><i>“To The Treasury Officer, Birbhum Treasury-II, Suri, Birbhum.</i></p> <p style="text-align: center;"><i>Reg : Relief on Family Pension.</i></p> <p><i>This is to inform that the family pension of late Manindra Nath Mali is being drawn by his wife Smt. Renuka Mali from UCO Bank, Gangmuri Joupur Branch from A/c. No. 1265 as per P.P.O. No. V/FP/40263 without relief since Smt. Renuka Mali was absorbed in the post of Group-D , w.e.f. 01.10.1999 and retired from Govt. service on 30.06.2007A.N.</i></p> <p><i>As the period of service of Smt. Mali does not complete 10 years of service and she is not entitled to pension she may be entitled to family pension including</i></p>	

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	<p><i>relief of his deceased husband w.e.f. 01.07.2007.</i></p> <p><i>Necessary steps may kindly be made to grant relief on family pension to Smt. Renuka Mali, W/O- Late Manindra Nath Mali w.e.f. 01.07.2007 if admissible as per rule.”.</i></p> <p>On a query, Mr. B. Chakrabarti, learned advocate submits that the applicant is getting family pension.</p> <p>It is submitted by Mr. A. Datta, the departmental representative, that though there was delay in implementing the order of the High Court, she was given appointment on 1st October, 1999. Moreover, since the applicant did not complete ten years of service, she is not entitled to the reliefs as prayed for.</p> <p>Heard learned advocate for the parties. Perusing the reliefs sought for, it appears that the applicant has prayed for an order for grant of service benefits including pay, seniority and other attending benefits from 1995 and also pension. We find that the applicant was appointed on 1st October, 1999 .The High Court by an order dated 11th February, 1998 had directed to implement the order dated 16/18th May, 1995 by the</p>	

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Skg.	<p>State Government to appoint the applicant and she was, as stated was appointed. After serving for about eight years, she had retired on 30th June, 2007. By order dated 22nd August, 2007 her prayer for pension was declined. After such rejection it appears that she did not challenge the order contained the memo dated 22nd August, 2007. The prayer of the applicant that the cause of action survives cannot be accepted in view of the statutory limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985. Therefore the order contained in the memo dated 22nd September, 2007 remains unchallenged. Hence, as this application was filed in 2016, after eleven years, the applicant cannot now seek for reliefs which are barred under the law. Therefore, no order is passed on this application. The application is dismissed.</p> <p>(Subesh Kumar Das) Member(A).</p>	<p>(Soumitra Pal) Chairman.</p>