

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 952 OF 2017 [MA 191 of 2018]

Sunil Kumar Bandyopadhyay 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
05 03.04.2019	<p>For the Applicant : Ms. B. Dutta, Learned Advocate.</p> <p>For the Respondent : Mr. A.L. Basu, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for extending him benefit of scale of pay of the promotional post in terms of the gradation list of Livestock Development Assistant with effect from the year 2010 on condonation of delay for approaching the Tribunal. The applicant has filed separate Miscellaneous Application No. 191 of 2018 praying for condonation of delay for approaching the Tribunal under section 5 of the Limitation Act. Both the applications are taken up for hearing together as the issues involved are interconnected. Accordingly, we have decided to dispose of both the applications by this common order.</p> <p>The contention of the applicant is that he joined in the post of Veterinary Field Assistant under Department of Animal Resource Development, Government of West Bengal on December 19, 1980. Admittedly, the applicant retired from service on attaining the age of superannuation on July 31, 2013. Learned Counsel representing the applicant contends that the juniors of the applicant in service were granted promotion by superseding the applicant in terms of gradation list published in</p>	

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the year 2010. However, the copies of the gradation list along with notification for publication of the same have not been placed on record. Nor has the applicant impleaded his juniors who are alleged to have superseded the applicant in getting promotion. The applicant has specifically stated in paragraph 4 of MA-191 of 2018 that the cause of action for approaching the Tribunal arose in the year 2010. There is nothing on record to indicate that the applicant submitted any application in accordance with law by ventilating his grievance for superseding him by his juniors in granting promotion and higher scale of pay till the date of his retirement from service on July 31, 2013. The copy of only representation submitted by the wife of the applicant before the Hon'ble Minister on December 5, 2012 can never be considered as a valid representation by the applicant for consideration by the respondents in accordance with law. Accordingly, we are of the view that the representation submitted by the wife of the applicant before the Hon'ble Minister on December 5, 2012 is not a valid representation in the eye of law.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant submitted one representation after retirement directly before the Director of Animal Husbandry and Veterinary Services, West Bengal and another representation on January 18, 2016 before the Joint Director of Animal Resource Development (Headquarters), West Bengal, but the said

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representation do not bear the endorsement of receiving official seal and signature and as such we are unable to accept the contention of the applicant that the representations were submitted in the year 2015 and in the year 2016 respectively. The last two representations have been submitted by the Learned Advocate for the applicant before the respondent no. 1 on December 9, 2014 and on October 17, 2017. These representations have been submitted after four years from the date of arising of the cause of action and after seven years from the date of arising of the cause of action. Even assuming for argument's sake that the cause of action which arose in the year 2010 continued till the date of retirement of the applicant on July 31, 2013, no valid explanation is forthcoming as to why the applicant did not approach the Tribunal for about four years after his retirement from service. This inordinate delay of four years has not been explained by the applicant to our satisfaction in the present application under section 5 of the Limitation Act, which is being treated as an application under section 21(3) of the Administrative Tribunals Act, 1985.

In view of our above findings, we are constrained to hold that the present original application is clearly barred under section 21 of the Administrative Tribunal Act, 1985 and as such we are not inclined to go into the merit of the original application. Both OA-952 of 2017 and MA-191 of 2018 are, thus, **dismissed**.

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Sanjib	Let urgent xerox certified copy of the order be supplied to the parties, if applied for, on priority basis after compliance of all necessary formalities. (S.K. DAS) MEMBER(A)	(R. K. BAG) MEMBER (J)
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