

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal, Hon'ble Chairman****& The Hon'ble Dr. Subesh Kumar Das, Administrative Member.****Case No –OA-104 of 2019.****Swapan Kumar Das. –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;">13 13.12.2019.</p>	<p>For the Applicant : Mr. J. Dey, Advocate.</p> <p>For the State Respondents : Mr. S. Ghosh, (Public Works Department) Advocate.</p> <p>For the State Respondents : Mr. M. N. Roy, (Finance Department) Advocate.</p> <p>For the Principal Accountant : Mr. B. Mitra, General (A&E), West Bengal. Departmental Representative.</p> <p>In this application, Swapan Kumar Das, the applicant, who, on 25th April, 2002, had joined in the office of the Executive Engineer, Mechanical Division No. 1, Public Works (Roads) Directorate and had superannuated on 31st December, 2011, has challenged the order passed by the Additional Chief Secretary, Public Works Department, Government of West Bengal, the respondent no. 3, rejecting his prayer for condoning the shortfall of 3 months and 23 days in qualifying service for consideration of pension, appearing at pages 28 and 29 of the original application.</p> <p>Mr. J. Dey, learned advocate appearing on behalf of the applicant, referring to the impugned order submits that since under Rule 36 of the West Bengal</p>	

ORDER SHEETSwapan Kumar Das.
.....

Form No.

Vs.**The State of West Bengal & Ors.**
.....Case No. OA-104 of 2019.

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>Services (Death-cum-Retirement Benefits) Rules, 1971, Part-I, the government has power to condone the deficiency of six months in the qualifying service of a government servant and as the deficiency in the instant case is 3 months 23 days, appropriate order may be passed in the interest of justice.</p> <p>Mr. S. Ghosh, learned advocate for the State respondents submits that since the impugned order rejecting the prayer of the applicant is well reasoned, no order may be passed.</p> <p>Mr. M. N. Roy, learned advocate for the Finance Department adopts the submission of Mr. Ghosh.</p> <p>In order to deal with the issue, it is necessary to refer to Rule 36, which is as under:-</p> <p style="text-align: center;"><i>“.....36. Power of Government to condone deficiency in service.- Upon any condition which it may think fit to impose, Government may condone a deficiency of six months in the qualifying service of a</i></p>	

ORDER SHEET**Swapan Kumar Das.**

Form No.

Vs.**The State of West Bengal & Ors.**Case No. OA-104 of 2019.

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><i>Government servant.</i></p> <p><i>Note.-The</i></p> <p><i>deficiency should not be</i></p> <p><i>condoned with a view to</i></p> <p><i>make up the minimum</i></p> <p><i>prescribed qualifying</i></p> <p><i>service for the purpose of</i></p> <p><i>death gratuity or family</i></p> <p><i>pension. In other cases</i></p> <p><i>power should be</i></p> <p><i>restricted to Government</i></p> <p><i>servant drawing pay not</i></p> <p><i>exceeding Rs. 425 per</i></p> <p><i>month at the time of</i></p> <p><i>retirement on invalid or</i></p> <p><i>compensation pension.</i></p> <p><i>....."</i></p> <p>Perused Rule 36. Since in the instant case, the deficiency is 3 months 23 days in the qualifying service of the applicant, considering the facts and circumstances of the case and in the interest of justice this application is disposed by directing the Additional Chief Secretary, Public Works Department, Government of West Bengal, - the respondent no. 3, to</p>	

ORDER SHEET**Swapan Kumar Das.**

Form No.

Vs.**The State of West Bengal & Ors.**Case No. OA-104 of 2019.

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
Sourav	<p>condone the deficiency of 3 months 23 days in the qualifying service and to grant pension to the applicant. Accordingly the impugned order passed by the Additional Chief Secretary, Public Works Department, Government of West Bengal, the respondent no. 3, appearing at pages 28 and 29 of the application, is set aside and quashed. The application is disposed of.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	