

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

The Hon'ble Mrs. Urmita Datta (Sen), Member (J)

The Hon'ble Mr. P. Ramesh Kumar, Member (A)

Case No – OA-1194 of 2016.Janmenjoy Bera. 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>09</p> <p>-----</p> <p>05-09-2019</p>	<p>For the Applicant : None.</p> <p>For the State Respondents : Mr. A. De, Mrs. R. Sarkar, Departmental Representatives.</p> <p>Even after second call also none appear for the applicant. It is noted that on earlier occasion also none appear for the applicant. Since it is the case of 2014, we proceed to adjudicate the matter on the basis of available records and submission made by the respondents.</p> <p>The instant application has been filed praying for the following reliefs :-</p> <p>a) An order directing upon the respondents to communicate or intimate the decision so taken by the respondent no. 1 after giving personal hearing on 25-05-2012 an</p>	

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	<p>16-07-2012 for absorbing the applicant in permanent employment in Group "D" post pursuant to the order of O.A. No. 1410/2011 passed by Hon'ble Tribunal.</p> <p>b) An order directing the respondents to absorb the applicant in permanent employment in Group "D" post forthwith.</p> <p>As per the applicant, he was engaged as Tahasil Mohurrior from time to time between 1977 to 1984. In the year 1988, one scheme had come into force for absorption to the posts of Group-D from Tahasil Mohurrior and the post of Tahasil Mohurrior was abolished in the year 1984. Earlier, he had approached this Tribunal in OA No. 1410 of 2011, which was disposed of vide order dated 20-01-2012 with a direction to the Principal Secretary and LRC, L & LR Department, Govt. of West Bengal to consider the representation of the applicant. However no</p>	

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	<p>decision has been communication to the applicant. Being aggrieved with, he has filed the instant application.</p> <p>The respondents have filed their written statement, wherein they have submitted that the case of the applicant was considered by the Department of Land & Land Reforms, Govt. of West Bengal and was rejected vide order dated 06-08-2012 on the ground that as the applicant did not fulfil the conditions stipulated in the Department's Memo dated 15-10-1998 wherein it is categorically stipulated that the Tahasil Mohurrior should render service of 5(five) years or more continuously after attaining 18 years of age. As the date of birth of the applicant is 10-07-1962, therefore he could have served the department only 3 years after attaining 18 years of age as on 1984.</p> <p>However the Counsel for the applicant has filed rejoinder wherein it has been stated that since no minimum age has been prescribed under D.C.R.B. Rule, therefore</p>	

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	<p>respondents cannot reject the claim of the applicant.</p> <p>We have heard the respondents and perused the records. It is noted that the applicant has claimed for absorption as per scheme formulated by the department, which was further clarified by the Memo dated 15-10-1998 wherein it has been specifically stated that :-</p> <p>“A question has now arisen as to whether the Tahasil Mohurriors who were engaged below the prescribed minimum age of 18 years will be eligible for recruitment/absorption in the said posts under the regular establishment of this Department.</p> <p>After careful consideration, it has been decided that, for the purpose of absorption of the Tahasil Mohurriors to the Group ‘D’ posts</p>	

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	<p>under the regular establishment of this Department, the provisions laid down in Finance Deptt. Notification Nos. 8321-F dated 06-11-1981 and 8322-F dated 06-11-1981 and also the provisions laid down in para 5 in Labour Department Memo No. 1700 EMP dated 03-08-1979 shall apply mutatis mutandis in these cases. The incumbents who were engaged as Tahasil Mohurriors on commission basis below the minimum age of 18 years and had not worked for five consecutive years after attaining the age of 18 years shall be debarred from consideration for absorption in Group 'D' posts under the regular establishment of this Department even if they are otherwise found eligible.</p> <p>It must be ensured that the above guideline and circular are</p>	

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	<p style="text-align: center;">strictly followed for absorption of Tahasil Mohurriors.”</p> <p>However as per the applicant since there is no minimum age limit of 18 years for entering into the government service as per D.C.R.B. Rule. Therefore the executive instruction cannot be a bar for calculation of 5 years on the basis of non-attaining 18 years. However it is observed that under the scheme formulated by the executive for absorption for that unless the applicant had entered into the government service and he is not covered by the D.C.R.B. Rule. Therefore the prescribed of minimum age limit of D.C.R.B. Rule is not relevant in this case. However the said scheme of “Absorption of Tahasil Mohurriors against Group-D post” was further clarified vide Memo dated 15-10-1998, wherein it had clearly stipulated the minimum age of 18 years for the purpose of calculating 5 years’ service. However the said scheme has not even been challenged by the applicant. Therefore in our considered view that the respondents have rightly rejected the claim</p>	

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Mihir	<p>of the applicant. Accordingly, the OA is dismissed being devoid of merit with no order as to cost.</p> <p>P. RAMESH KUMAR MEMBER(A) URMITA DATTA (SEN) MEMBER(J)</p>	