

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

**The Hon'ble Justice Soumitra Pal,  
& The Hon'ble Dr. Subesh Kumar Das.**

**Case No –OA-121 of 2019.****Amar Garain. –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>2</u> 25.03.2019.</p>	<p><b>For the Applicant : Mrs. Sonali Mitra, Advocate.</b></p> <p><b>For the Respondents : Mr. Ruhul Amin Chowdhury, Advocate.</b></p> <p><b>For the Principal Accountant : Mr. Biswanath Mitra, General (A&amp;E), West Bengal. Departmental Representative.</b></p> <p>Affidavit of service filed today be kept on record.</p> <p>In this application the applicant has prayed for certain reliefs, the relevant portion of which is as under :</p> <p style="text-align: center;"><i>“ (a) Pass an order directing the respondents to release the pension with effect from 1.4.2018 by condoning the shortfall of service considering the solemn order passed by the Hon'ble High Court as well as the Hon'ble Supreme Court within a stipulated period of time. ....”</i></p> <p>It appears that the applicant pursuant to the memo dated 28<sup>th</sup> May, 2010 had joined as Group-D staff on 3<sup>rd</sup> June, 2010 before the Sub-Divisional Officer</p>	

**ORDER SHEET****Amar Garain.**

Form No. ....

**Vs.****The State of West Bengal & Ors.**Case No. OA-121 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>in the Purulia Irrigation Division. After rendering service for about seven years ten months, he had superannuated on 31<sup>st</sup> March, 2018. It is submitted by Mrs. Sonali Mitra, learned advocate for the applicant that since the shortfall to qualify for pension is about two years two months and as the applicant has rendered uninterrupted service for about two years two months prior to his joining on 3<sup>rd</sup> June, 2010, appropriate order may be passed directing grant of pension. In this regard our attention has been drawn to the list of casual and such other workers appearing at pages 21E to 21J of the application. Mrs. Mitra, has relied on the judgment of the High Court passed in WPST 379 of 2013 -Anantalal Mahata -v.- State of West Bengal &amp; Ors. in support of her submission.</p> <p>Mr. Ruhul Amin Chowdhury, learned advocate appearing on behalf of the respondents submits that as the applicant has been unable to show he had served for a period of two years two months continuously prior to being conferred with the permanent status and that he did not serve continuously for the said period which is evident from the information sought by the applicant himself pursuant to the application under</p>	

**ORDER SHEET**

Amar Garain.

Form No. ....

**Vs.****The State of West Bengal & Ors.**Case No. OA-121 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>the Right to Information Act, 2005, no order may be passed.</p> <p>Mr. Biswanath Mitra, the Departmental Representative for the Principal Accountant General (A &amp; E), West Bengal adopts the submission of Mr. Chowdhury.</p> <p>Admittedly, the applicant was appointed on 3<sup>rd</sup> June, 2010 and had retired on 31<sup>st</sup> March, 2018. Therefore, he has rendered service for about seven years ten months. In order to qualify pension one has to render service for a minimum period of ten years. Under Rule 36 of the DCRB Rules the State Government has been given the power to relax the shortfall up to six months. In this regard it is appropriate to refer to the relevant portion of the judgment passed in Anantalal Mahata (Supra) wherein it has been held as under :</p> <p style="text-align: center;"><i>“.....We have held that under the DCRB Rules, the service rendered by an employee on a temporary basis continuously, prior to being conferred with the permanent status must be taken into</i></p>	

**ORDER SHEET**

Amar Garain.

Form No. ....

**Vs.****The State of West Bengal & Ors.**Case No. OA-121 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>consideration for computing the qualifying service for payment of pension. For the reasons stated in the aforesaid judgements these petitions are also allowed.</i></p> <p><i>However, where the Petitioners have not rendered qualifying service of ten years even after reckoning the period of service rendered by them as temporary employees, they would not be entitled to pension as a matter of right. In such cases the Government will apply Rule 36 of the DCRB Rules under which it is vested with the power to condone the deficiency in the qualifying service up to six months. An employee may also apply to the Governor of the State of West Bengal for the relaxation of the Rules under Rule 4 of the DCRB Rules. ...."</i></p> <p>We find from the information provided to the</p>	

**ORDER SHEET****Amar Garain.**

Form No. ....

**Vs.****The State of West Bengal & Ors.**Case No. OA-121 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>applicant under RTI Act, particularly the annexure at page 21B of the application, that in the preceding two years two months prior to his joining as a permanent staff, that is from April, 2008 to May, 2010, the applicant did not render service on a temporary basis "continuously". In some of the months in 2008 he did not render service at all and has been marked "NIL" and in other months he had worked for twenty days.</p> <p>Therefore, the service of the applicant in the two years two months prior to regularisation cannot be treated as continuous and without a break. Hence, the application fails and is dismissed.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	