

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-143 of 2016.Netai Chand Bisai. 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>14</p> <p>-----</p> <p>22-07-2019</p>	<p>For the Applicant : Mr. K. K. Bhattacharya, Advocate.</p> <p>For the State Respondents : Mr. D. Koley, Advocate.</p> <p>The instant application has been filed praying for the following reliefs :-</p> <p>a) To give a direction upon the respondent and/or their agents and servants to give approval of the appointment of the applicant from the date of the preparation of the panel on 27-08-2002, by treating his service of such period notionally, so that the applicant receive pension after his retirement forthwith.</p> <p>b) Any other appropriate order or orders, direction or directions as</p>	

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	<p style="text-align: center;">this Hon'ble Tribunal may deem fit and proper to protect the right of the applicants.</p> <p>As per the applicant, being a schedule caste candidate, he was sponsored by the Employment Exchange and appeared for interview for the post of Night Guard on 04-01-1999 and subsequently vide panel dated 27-08-2002, he was selected for the said post. However he was appointed as Night Guard vide order dated 7th July, 2009(Annexure-D) at the age of 52 years 9 months and 2 days. In the mean time vide Memo dated 26th June, 2009 and subsequently vide order dated 22-01-2015 (Annexure-E), the Director of Social Welfare, West Bengal had communicated that at the time of the appointment the applicant was beyond age limit of 45 years as stipulated for Schedule Caste candidates, however as there was some delay for publishing of panel and issuance of appointment letter. Therefore excess age of 52 years 9 months and 2 days was condoned in terms of Rule 8 of W.B.S.R.</p>	

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	<p>Part-1 and subsequently he retired on 31-10-2016. However, after retirement he could not get any pension due to the lack of eligible qualifying service. Being aggrieved with, he has filed the instant application.</p> <p>Though enough opportunity was granted to the respondent but no reply has been filed. However the Counsel for the respondent has submitted that for the purpose of pension minimum 10 years qualifying service is required. However the applicant was appointed at the age of 52 years 9 months and 2 days and obviously he could not complete the 10 years qualifying service as required under Rules for the purpose of receiving pension. However he never challenged the same while he was appointed but joined the said post knowing fully that the purpose of pension, tenure of 10 years minimum qualifying service is required. It has been further submitted that the applicant was even appointed beyond the maximum age stipulated for Schedule Caste candidates i.e. 45 years but he was granted age relaxation benefit</p>	

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Mihir	<p>at the time of his appointment. Therefore as per Rules he was not granted any pension.</p> <p>We have heard both the parties and perused the records. It is noted that the applicant was admittedly appointed almost at the age of 53 years which he never challenged at the time of his joining of his service and as per Rules a government employee require minimum 10 years of qualifying service for the purpose of pension. As he could not complete minimum 10 years of qualifying service at the time of retirement, therefore, at this stage, he cannot asked for the pension, which is not permissible as per Rules. Thus we do not find any merit to entertain the instant application.</p> <p>Accordingly, the OA is dismissed being devoid of merit.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	

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