

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-180 of 2014.**Sri Shiva Prasad Sur. -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>23</u> 10.2.2020.</p>	<p>For the Applicant : Mr. B. Chakraborty, Mrs. S. Mitra, Advocates.</p> <p>For the State Respondents : Mrs. M. Mullick, Advocate.</p> <p>In this application, Shiva Prasad Sur, the applicant, the Teacher-in-Charge (in the rank of Assistant Headmaster) of Bidhan Nagar Government High School, who had superannuated on 28th February, 2005, has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p style="padding-left: 40px;"><i>“a) Order be issued directing the respondents and each of them to issue suitable orders for counting past service from 18.08.1969 to 22.07.1977 since rendered by the applicant in Bongaon Keshanb lal Vidyapith.</i></p> <p style="padding-left: 40px;"><i>b) Order be issued directing the respondents and each of them to re-fix pension of the applicant taking into account the past service and to pay arrear of pension and other attendant benefits on such re-</i></p>	

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	<p><i>fixation of pension.</i></p> <p><i>c) Order be issued setting aside and / or quashing the orders dated 04.06.2013 passed by the respondent no. 2 herein. "</i></p> <p>It appears earlier the applicant had moved before the Tribunal by filing an application, being OA-933 of 2012, which was disposed of by passing an order, the relevant portion of which is as under :-</p> <p><i>"After going through the submissions of the Ld. Advocates on behalf of both the sides as well the averment of the application along with enclosures, we dispose of the present application with direction to the authority/respondent No. 2 to dispose of the present application of the petitioner within 20 [twenty] weeks from the date of communication of this order after giving an opportunity of personal hearing of the petitioner and the decision shall be communicated to the petitioner within 4 [four]</i></p>	

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	<p><i>weeks thereafter. As per rules as well as from the concurrence of the Finance department, Govt. of West Bengal, if the petitioner is entitled to get the benefits, the authority is directed to take appropriate steps within a short while.</i></p> <p><i>The application is disposed of accordingly."</i></p> <p>Pursuant to the said order, the Commissioner of School Education, Government of West Bengal had passed an order contained in the memo dated 4th June, 2013, the relevant portion of which is as under :-</p> <p><i>"The applicant submitted that he filed the application claiming for counting of past service from 18-08-1969 to 22-07-1977 as rendered by him in Bongaon Keshablal Vidyapith, a Govt. aided school. He was appointed in the year 1966 at Bongaon Keshablal Vidyapith (a Government aided school) in the post of Geography against a deputation vacancy. The said</i></p>	

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	<p><i>appointment was subsequently approved by the District Inspector of Schools vide his letter No. 2449 dated 9-6-1971 w. e. f. 18-08-1969.</i></p> <p><i>Thereafter he joined as Assistant Master in Bankura Zilla School on 23-07-1977 through Public Service Commission taking leave without pay for two years as there was no provision of obtaining lien. After serving two years at Bankura Zilla School he was transferred to the Bidhannagar Govt. High School on 5-5-1979 and from there he retired from service with effect from 28-2-2005.</i></p> <p><i>During his tenure at Bidhannagar Govt. High School, he approached different times to the authorities concerned for counting of service rendered at Bongaon Keshablal Vidyapith. He also deposited Rs. 3425/- being the amount drawn by him towards</i></p>	

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	<p><i>employers' share of contributory provident fund along with interest. He also submitted that the School Education Department by a letter dated 11-5-2011 regretted inability to count past service on the ground of non-availability of authentic documents which speaks for itself that he joined the Govt. Service through proper channel. He further submitted that though he produced authentic documents and claimed for counting of past service, the School Education Department again reiterated their earlier decision and rejected the prayer.</i></p> <p><i>Now, he has prayed for counting of his past service rendered at Bangaon Keshblal Vidyapith for the period from 18-08-1969 to 22-07-1977.</i></p> <p><i>Heard the applicant, Considered the submissions, Perused all papers and documents</i></p>	

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	<p><i>as were placed before me. It appears that the School Education Department consecutively two times regretted its inability to count past service of the petitioner rendered at Bangoan Keshablal Vidyapith w. e. f. 18-8-1969-to 22-07-1997 vide memo no. 493-SE(A) dated 11/05/2001 and no. 269-SE(A) dated 18/03/2012. Since the School Education Department Govt. of West Bengal considered the issue and regretted their inability to accede to the prayer of the applicant, the undersigned is not in a position to pass any further order contrary to the order of the School Education Department, Govt. of West Bengal.</i></p> <p><i>Thus the matter is disposed of. "</i></p> <p>After the matter was admitted, directions were issued to file reply and rejoinder. The State has not filed reply.</p> <p>Mr. B. Chakraborty, learned advocate appearing</p>	

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	<p>on behalf of the applicant, submits that since the applicant had served from 18th August, 1969 till 22nd July, 1977 in Bangoan Keshablal Vidyapith, a government aided institution, as an Assistant Teacher, and thereafter, had joined the post of Assistant Master in Bankura Zilla School on 23rd July, 1977 pursuant to the order dated 13th July, 1977 issued by the Director of Secondary Education, appropriate order may be passed for counting his past service rendered in Bangoan Keshablal Vidyapith. Though representations were made, however, no order has been passed. Referring to the intimation dated 11th May, 2001 issued by the Deputy Secretary, School Education Department, being annexure P-5 of this application, it is submitted though benefit of past service has not been granted as according to the respondents there is no authentic document showing that the applicant had joined government service through proper channel, in view of the memo no. $\frac{180\text{-Edn.(B)}}{\text{IM-83/88}}$ dated 20th May, 1988 issued by the Secretary, Education Department (Budget Branch), Government of West Bengal, appropriate order may be passed.</p> <p>Mrs. M. Mullick, learned advocate for the State</p>	

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	<p>respondents submits that the said memo relied on behalf of the applicant, is not applicable to the applicant as the service of a government teacher is guided by the necessary rules and regulations relating to government servants.</p> <p>Having heard Mr. Chakraborty and Mrs. Mullick, learned advocates for the parties and considering the facts and circumstances of the case and as the memo dated 20th May, 1988 was not cited by the applicant before the Commissioner of School Education as evident from the impugned order dated 4th June, 2013, the application is disposed of by directing the Secretary, now re-designated Principal Secretary, Secondary Education Department, Government of West Bengal - the respondent no. 1 to dispose of the matter regarding counting of past service of the applicant rendered from 18th August, 1969 till 22nd July, 1977 in Bangoan Keshablal Vidyapith, by passing a reasoned order to be communicated to the parties within fifteen weeks from the date of presentation of a copy of this order, after giving an opportunity of hearing, after verifying the records and after dealing with the relevant provisions</p>	

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Sourav	<p>in this regard including the memo dated 20th May, 1988 furnished today on behalf of the applicant, uninfluenced by the impugned memo dated 4th June, 2013.</p> <p>(DR. SUBESH KUMAR DAS) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	