

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble JUSTICE RANJIT KUMAR BAG
& The Hon'ble DR. SUBESH KUMAR DAS**

Case No – OA 423 OF 2016

Abdul Mannan & Another vs **The State of West Bengal & Ors.**

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;">12 <hr/>11.09.2018</p>	<p><i>For the Applicants : Mr. A.B. Mukherjee, Learned Advocate.</i></p> <p><i>For the State Respondents : Mrs. S. Agarwal, Learned Advocate.</i></p> <p><i>Reply and rejoinder filed by the respective parties today are kept on record.</i></p> <p><i>The applicants have prayed for direction upon the respondents to count the past service rendered by the applicants for grant of pensionary benefits.</i></p> <p><i>The applicant no. 1 was appointed in the post of Constable of Police on May 29, 2006 and retired from service on June 30, 2015. He rendered service in the post of Constable of Police for total period of nine years and one month. The applicant no. 2 was appointed in the post of Constable of Police on November, 2007 and retired from service on August 31, 2015. He served in the post of Constable of Police for total period of eight years nine months. Both these applicants served as National Volunteer Force (in short N.V.F) for prolonged period of time before their appointment in the post of Constable of Police.</i></p>	

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With the above factual matrix, Mr. A.B. Mukherjee, Learned Counsel for the applicants contends that the applicants served for prolonged period of time of N.V.F, though there was break in the service of N.V.F. after gap of ninety days. Mr. Mukherjee further contends that the applicants would have joined in the post of Constable of Police long back, had there been relaxation of Physical Measurement and age of recruitment before their appointment in the post of Constable of Police in time. On the other hand, Mrs. S. Agarwal, Learned Counsel representing the state respondents submits that the applicants have not rendered ten years of qualifying service for pension as per provisions of Rule 67 of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971(in short DCRB Rules, 1971).

Having heard Learned Counsel representing both parties and on consideration of the materials of record, we find that the applicants have not fulfilled the criteria of qualifying service of ten years for grant of pension as laid down in Rule 67 of the DCRB Rules, 1971. That apart, the shortfall in qualifying service in pension of the applicant no. 1 is eleven months and the shortfall in qualifying service for pension of applicant no. 2 is more than one year and as such we cannot persuade ourselves to give direction to the state respondents to condone the

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shortfall in qualifying service for pension by invoking Rule 36 of the DCRB Rules, 1971. Since the applicants have not rendered continuous service as NVF before their appointment in the post of Constable of Police, they are not entitled to get the benefit of past service for grant of pension. As a result, the applicants are not entitled to get pension by counting of past service as prayed for.

The original application is thus dismissed.

Let a plain copy of the order be supplied to both parties.

(S.K.DAS)
Member (A)

(R.K.BAG)
Member (J)

H.S

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