

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 96 OF 2016

Subhas Chandra Kundu & Others 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 style="text-align: center;"><i>Reply filed by the State respondents today is kept on record.</i></p> <p style="text-align: center;"><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 style="text-align: center;"><i>The applicant no. 1 was appointed in the post of Constable of Police on November 16, 2007 and retired from service on May 31, 2015. The applicant no. 1 rendered service in the post of Constable of Police for total period of eight years and six months. The applicant no. 2 was appointed in the post of Constable of Police on November 16, 2007 and retired from service on May 31, 2015. He served in the post of Constable of Police for total period of eight years six months. The applicant no. 3 was appointed in the post of Constable of Police on November 21, 2008 and retired from service on October</i></p>	

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31, 2014. He served in the post of Constable of Police for total period of six years eleven months. The applicant no. 4 was appointed in the post of Constable of Police on November 21, 2008 and retired from service on January 31, 2015. He served in the post of Constable of Police for total period of seven years two months. The applicant no. 5 was appointed in the post of Constable of Police on May 28, 2006 and retired from service on March 31, 2015. He served in the post of Constable of Police for total period of nine years nine months. All 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.

With the above factual matrix, Mr. A.B. Mukherjee, Learned Counsel for the applicants contends that the applicant served for prolonged period of time as 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 for 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 completed ten years of qualifying service for pension as

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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 for pension of the applicant no. 1 is more than one year, the shortfall in qualifying service for pension of the applicant no. 2 is more than one year, the shortfall in qualifying service for pension of the applicant no. 3 is more than three years, the shortfall in qualifying service for pension of the applicant no. 4 is more two years and the shortfall in qualifying service for pension of applicant no. 5 is more than two months and as such we cannot persuade ourselves to give direction to the state respondents to condone the shortfall in qualifying service for pension by invoking Rule 36 of West Bengal Services (Death-cum Retirement Benefit) 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 count past service for grant of pension. As a result, the applicants are not entitled to get pension by

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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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