

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**The Hon'ble Justice Ranjit Kumar Bag  
& The Hon'ble Dr. Subesh Kumar Das**

**Case No – OA 372 of 2016**

Hiralal alias Tarun Kanti Chakraborty 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
13 14.02.2019	<p>For the Applicants : Mr. T.K. Roy, Learned Advocate.</p> <p>For the Respondent : Mr. A. De, Nos. 2,4,5,6&amp;7 : Departmental Representative.</p> <p>For the AG (A&amp;E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant has prayed for direction upon the respondents to grant pension on cancellation of order communicated under letter dated January 18, 2017 by the Additional Secretary to the Government of West Bengal, Department of Land &amp; Land Reforms and Refugee, Relief and Rehabilitation, by which payer of the applicant for condonation of deficiency in qualifying service for pension was turned down.</p> <p>It appears from the materials on record that the applicant was appointed as Night Guard in Group-D post in the establishment of Sub-Divisional Land &amp; Land Reforms Officer, Asansol in terms of the order dated January 17, 2006 issued by the District Land &amp; Land Reforms Officer, Burdwan. The applicant joined in the Group-D post in terms of the said order on January 20, 2006. It is pertinent to point out that the applicant rendered service as Tahasil Mohurrior on temporary basis during the period from 1973 to 1984. Ultimately, the applicant retired</p>	

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from service on November 30, 2015. He rendered service in Group-D post for a period of nine years ten months and ten days. The minimum qualifying service for getting pension is ten years in terms of Rule 67 of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 (in short, the DCRB Rules, 1971). The applicant submitted several representations initially before the respondent no. 4 and ultimately before the respondent no. 2 for condonation of shortfall in the qualifying service for pension. Ultimately, prayer of the applicant for condonation of deficiency in qualifying service for getting pension was turned down and the same was communicated to the Director of Land Records and Surveys and Joint Land Reforms Commissioner, West Bengal on January 18, 2017 by the Additional Secretary to the Government of West Bengal, Department of Land & Land Reforms and Refugee, Relief and Rehabilitation.

Relying on unreported decision of the Division Bench of the Hon'ble High Court in "Sk. Golam Zikria v State of West Bengal & Ors." (WPST No. 81 of 2014 disposed of on February 16, 2015), Learned Counsel for the applicant submits that the shortfall in the qualifying service for pension of the applicant is less than six months and as such the said shortfall can be condoned by the State Government by invoking the provisions of Rule 36 of the DCRB Rules, 1971. The Departmental Representative of the state respondents submits that necessary

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order may be passed on consideration of the fact that the deficiency in qualifying service for pension is less than six months. On consideration of the decision of the Division Bench of the Hon'ble High Court in "Sk. Golam Zikria" (supra), we find that the Hon'ble High Court directed the State Government to exercise power under Rule 36 of the DCRB Rules, 1971 as well as Rule 4 of the DCRB Rules, 1971 for condonation of deficiency in qualifying service for pension, which was less than six months. By following the above proposition of law laid down by the Division Bench of the Hon'ble High Court, we are of the view that the respondent no. 2 should invoke the provision of Rule 36 of the DCRB Rules, 1971 for condonation of deficiency in qualifying service for pension of the applicant, which is less than six months and take necessary follow up action within stipulated period of time.

In view of our above observation, the decision taken by the State Government which was communicated to the Director of Land Records and Surveys and Joint Land Reforms Commissioner, West Bengal by the Additional Secretary to the Government of West Bengal, Department of Land & Land Reforms and Refugee, Relief and Rehabilitation on January 18, 2017 is set aside. The respondent no. 2, Principal Secretary to the Government of West Bengal, Department of Land & Land Reforms is directed to invoke the provisions of Rule 36 of the DCRB Rules, 1971 for condonation of deficiency in qualifying

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service for pension of the applicant by taking into consideration the decision of the Division Bench of the Hon'ble High Court in "Sk. Golam Zikria" (supra) within a period of 12 (twelve) weeks from the date of communication of the order and take necessary follow up action within a period of 8 (eight) weeks thereafter.

With the above direction, the original application stands **disposed of.**

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

( S.K. DAS )  
MEMBER(A)

( R. K. BAG )  
MEMBER (J)

Sanjib