

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,
Case No. – OA 377 OF 2022**

MD. MAHABAT HOSSAIN - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mr.Jayanta Dey Advocate
<u>06</u> 06.03.2023	For the State respondent	:	Mrs.Sunita Agarwal Advocate
	For the Principal Accountant General (A&E) West Bengal	:	Mr.Biswanath Mitra (Departmental Representative)

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the impugned order passed by the respondent rejecting his prayer for condonation of deficiency in the qualifying service. The reasoned order regretted the application for counting of past service on the ground that his past service as a National Volunteer Force volunteer was not uninterrupted. Thus, there was a shortfall of 5 months.

Mr.J.Dey, learned counsel appearing on behalf of the applicant submits that although the respondent had discretion under Rule 36 of D.C.R.B. to condone the shortfall, but, this discretion was not exercised under Rule 36 of D.C.R.B Rules, 1971.

Mrs.S.Agarwal, learned counsel relying on a Memo. No. 1232(16)-HD/Con-17/69 dated 03.06.1969 submits that as per the West Bengal National Volunteer Force Act, 1949, such volunteers called for duty shall not be retained for more than 3 months at a stretch. In this application, the applicant's service

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was not more than 3 months at a stretch and thus, it was interrupted.

After hearing the submissions of the learned counsels, it is my opinion that the Tribunal's direction to the respondent to pass a reasoned order in OA-590 of 2019 was complied and a reasoned order, thus, passed. Since the shortfall of 5 months was not considered by the respondent under Rule 36 of D.C.R.B. Rules 1971, the Tribunal feels constrained to consider the prayer for a redirection to the respondent to reconsider the prayer.

Accordingly, the application is disposed of without any orders.

BLR

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)