

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 1025 OF 2018

Kalpana Karmakar 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
04 20.06.2019	<p>For the Applicant : Mr. H. Das, Learned Advocate.</p> <p>For the Respondents : None.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The applicant is the wife of one Kartick Chandra Karmakar, who died on February 25, 2013 while working as Accountant of ICDS Project, Purulia. The applicant has prayed for direction upon the respondents to grant her family pension and other death benefits of her deceased husband.</p> <p>The contention of the applicant is that her husband Kartick Chandra Karmakar submitted application for voluntary retirement as he was suffering from prolonged illness and was not in a position to attend the office. It appears from the letter dated December 16, 2016 issued by the respondent no. 3 in favour of the respondent no. 4 (Annexure-A to the original application) that the appointing authority has not accepted the request of the deceased employee for voluntary retirement from service. It also appears from the said letter dated December 16, 2016 that no leave was available in the credit of the deceased employee on and from January 21, 2012. By the said letter dated December 16, 2016, the respondent no. 3 has communicated that the date of retirement of the deceased employee should be considered w.e.f. January 21, 2012 as no leave was to the credit of the deceased employee after the said</p>	

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date. A Government employee cannot be declared to have retired with effect from a particular date only because no leave was available to the credit of the said employee, particularly when prayer of the said employee for voluntary retirement from service was turned down by the appointing authority. The letter dated December 16, 2016 issued by the respondent no. 3 in favour of the respondent no. 4 cannot be treated as legal and valid and thereby the said letter cannot be acted upon for the purpose of disbursement of family pension and death benefits of the deceased employee.

Having heard Learned Counsel for the applicant and the Departmental Representative of the respondent AG (A&E), West Bengal, we find that the deceased employee Kartick Chandra Karmakar died on February 25, 2013 while he was in service. Since no leave was available to the credit of the deceased employee after January 21, 2012, the period from January 21, 2012 till the date of his death on February 25, 2013 must be regularised in accordance with law for the purpose of granting family pension and death benefits of the said employee. In our view, the period of service of the deceased employee from January 21, 2012 till the date of his death on February 25, 2013 needs to be regularised by grant of Extra-Ordinary Leave without pay in terms of Rule 175 of West Bengal Service Rules, Part-I, so that the family pension and death benefits may be granted to the applicant and other legal heirs, if any, of the said deceased employee.

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We have been informed of the fact of disbursement of the amount of GPF of the deceased employee. Since leave was not available to the credit of the deceased employee, there is no question of grant of leave encashment in favour of the legal heirs of the deceased employee. However, the legal heirs of the deceased employee are entitled to get the amount of death gratuity and group insurance and the applicant being the wife of the deceased employee is entitled to get family pension in terms of the provisions of Rule 7 (e) of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971.

In view of our above observation, the respondent no. 3, Commissioner, Department of Women and Child Development and Social Welfare, Government of West Bengal is directed to regularise the period of service of the deceased employee Kartick Chandra Karmakar from January 21, 2012 to February 25, 2013 in terms of the observation made by us in this order and take necessary action for grant of family pension in favour of the applicant and for granting death gratuity and group insurance in favour of the legal heirs of the deceased employee within a period of 12 (twelve) weeks from the date of communication of the order.

The original application, thus, 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

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