

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

**Present-**

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

Case No – **OA 1257 OF 2013**

**Dolly Sarki @ Dally Sarke @ Doli Sarki 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
16 13.03.2018	<p><b>For the Applicant</b> : Mrs. Dolly Sarki, In person.</p> <p><b>For the Respondents</b> : Mr. A.L. Basu, Learned Advocate.</p> <p><b>For the Pvt. Respondent No. 4</b> : Mr. G.P. Banerjee, Learned Advocate.</p> <p>For AG (A&amp;E), WB : Mr. B. Mitra, Depttl. Rep.</p> <p>The applicant has filed this original application under section 19 of the Administrative Tribunals Act, 1985 praying for direction upon the respondents to release service benefits of her deceased husband.</p> <p>It appears from the materials on record that one Ram Bahadur Sarki died on December 11, 2011 while he was working as Constable under the Superintendent of Police, North 24-Parganas. Previously, the applicant approached the Tribunal by filing OA-1379 of 2012 praying for release of retiral benefits of Ram Bahadur Sarki. On January 10, 2013, the Tribunal disposed of OA-1379 of 2012 by directing the Superintendent of Police, North 24-Parganas to pass a reasoned order in connection with family pension and other retiral benefits of Ram Bahadur Sarki. The reasoned order passed by the Superintendent of Police, North 24-Parganas on April 12, 2013 indicates that Ram Bahadur Sarki married one Amrita Devi Sarki who died</p>	

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	<p>on August 23, 1999 leaving behind two daughters namely Sujata Sarki and Sadhana Sarki – both being married. It further appears from the reasoned order of the Superintendent of Police, North 24-Parganas that Ram Bahadur Sarki again married one Ratna Sarki who eloped with someone else leaving behind her two sons namely Amit Sarki and Roshan Sarki. It appears from the said reasoned order that Amit Sarki died on November 4, 2008 and Roshan Sarki is impleaded as respondent no. 4 of the present application. Subsequently, Ram Bahadur Sarki married the present applicant Dolly Sarki and the marriage was documented by one Notary at Kalyani in the district of Nadia on September 14, 2001, which was not considered as a valid document of marriage by the Superintendent of Police, North 24-Parganas. One daughter by name Piu Sarki was born from the wedlock of the applicant and Ram Bahadur Sarki. The birth certificate of Piu Sarki issued by the municipality indicates that Ram Bahadur Sarki is the father of Piu Sarki. Since valid documents of marriage of three wives of Ram Bahadur Sarki are not forthcoming before the Tribunal, we are inclined to decide the claim of the applicant for family pension and other retiral benefits of Ram Bahadur Sarki on the basis of entries made in the service book. The name of the applicant is recorded as wife of Ram Bahadur Sarki in the service book which indicates the intention of Ram Bahadur Sarki to recognise the present applicant as his wife. Admittedly,</p>	
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the first wife of Ram Bahadur Sarki namely Amrita Devi Sarki is dead and the second wife of Ram Bahadur Sarki namely Ratna Sarki is untraceable. Since the name of the applicant is recorded in the service book of Ram Bahadur Sarki as his wife and since the present applicant is pursuing her case for retiral benefits and family pension after death of Ram Bahadur Sarki on December 11, 2011, we don't find any justification in the reasoned order passed by the Superintendent of Police, North 24-Parganas on April 12, 2013 in refusing the claim of the applicant for retiral benefits and family pension after the death of Ram Bahadur Sarki.

In view of our above findings, the reasoned order passed by the Superintendent of Police, North 24-Parganas on April 12, 2013 is set aside.

Rule 105 of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971 [in short WBS (DCRB) Rules, 1971] read with Memorandum No. 1410-F (Pen) dated November 12, 1997 issued by the Finance Department, Government of West Bengal provide that the family pension will be given to one person of the family and after the death of the said person of the family pension can be given to the children born by other wives of the deceased employee. In view of the above provisions of law, the applicant is entitled to get family pension after the death of her husband Ram Bahadur Sarki. However, other retiral benefits of Ram Bahadur Sarki namely leave encashment, gratuity etc. will be released in favour of all the legal heirs of Ram

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Bahadur Sarki in equal share, namely (i) Roshan Sarki (son from second wife), (ii) Sujata Sarki (daughter from first wife), (iii) Sadhana Sarki (daughter from first wife), (iv) Piu Sarki (daughter from third wife), (v) Bahadur Sarki (father, if alive) and the present applicant Dolly Sarki (living third wife). The respondent no. 2, Superintendent of Police, North 24-Parganas at Barasat is directed to complete the process for releasing family pension and all other retiral benefits of Ram Bahadur Sarki in favour of the present applicant and other legal heirs as observed by us without insisting on production of documents of legal heirship within a period of 12 (twelve) weeks from the date of communication of the order.

The respondent no. 3, Principal Accountant General (A&E), West Bengal is directed to take necessary steps for releasing family pension and other retiral benefits of Ram Bahadur Sarki within a period of 12 (twelve) weeks from the date of receiving communication from the Superintendent of Police, North 24-Parganas at Barasat.

With the above direction, the original application is disposed of.

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

**( S.K. DAS )**  
MEMBER(A)

**( R. K. BAG )**  
MEMBER (J)

Sanjib

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