

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 1274 OF 2014**

Balaram Gangopadhyay 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
14 18.04.2019	<p>For the Applicants : Mr. R. Banerjee, Learned Advocate.</p> <p>For the Respondents : Mr. S.N. Ray, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The substituted applicant has prayed for direction upon the respondents for grant of pension and retirement benefits of her deceased husband.</p> <p>The contention of the applicant is that one Balaram Gangopadhyay retired from the post of Agragami, Grade-I, Water Wing Civil Defence on May 31, 2014 from the establishment of the respondent no. 6, Commandant, Water Wing Civil Defence, Government of West Bengal. He died on September 12, 2017 leaving behind the applicant Mitali Gangyopadhyay as his wife and the respondent no. 6, Parbati Chakraborty and the respondent no. 8, Chandana Gangyopadhyay as his daughters – all being legal heirs of the deceased Government employee. The further contention of the original applicant was that his pension and other retirement benefits were not released by the concerned authority on the basis of allegation made by his wife i.e. substituted applicant Mitali Gangyopadhyay for non-payment of maintenance granted</p>	

ORDER SHEET

Balaram Gangopadhyay

Form No.

Vs.

The State of West Bengal & Ors.

Case No. **OA 1274 OF 2014**

by the competent Court of Learned Magistrate. The copy of order dated November 20, 2012 passed by Learned Judicial Magistrate, 2nd Court, Chandannagar in the Misc. Case No. 28 of 2012 indicates that the deceased employee Balaram Gangopadhyay was directed to make payment of maintenance to the substituted applicant Mitali Gangyopadhyay @ Rs.2000/- per month with effect from the date of the order i.e. November 20, 2012. Since the amount of maintenance was not paid by the deceased employee to his wife, the respondents did not issue necessary order for grant of pension and other retirement benefits of the deceased employee. The scenario is changed after death of Balaram Gangopadhyay on September 12, 2017 when his wife Mitali Gangyopadhyay is substituted as the applicant and two married daughters of the deceased employee have been substituted as respondent no. 7 and 8 in the original application.

Having heard Learned Counsel representing both parties and the Departmental Representative of the respondent AG (A&E), West Bengal and on consideration of the materials on record, we find that the order for grant of pension in favour of the deceased employee was not issued by the pension sanctioning authority, as the application and other papers could not be submitted by the deceased employee for grant of pension due to non-cooperation of the present applicant i.e. the wife of the deceased employee who was living separately from her husband

ORDER SHEET

Balaram Gangopadhyay

Form No.

Vs.

The State of West Bengal & Ors.

Case No. **OA 1274 OF 2014**

during prolonged period of time. Nothing is on record to indicate that gratuity, amount of group insurance and leave encashment were released in favour of the deceased Government employee after his retirement from service.

The provisions of Rule 7 (e)(2) of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 (in short, the DCRB Rules, 1971) provides that the wife of the deceased Government employee is entitled to get the family pension. However, all legal heirs of the deceased Government employee are entitled to receive the amount of retiring gratuity, life-time arrears of pension, the amount of group insurance and the amount of leave encashment in equal 1/3rd share as per provisions of the personal law by which the employee is governed. It is relevant to point out that in the instant case, the substituted applicant and the private respondent nos. 7 and 8 are the legal heirs of the deceased employee Balaram Gangopadhyay.

In view of our above observation, we direct the respondent no. 6, the Commandant, Water Wing Civil Defence, Department of Civil Defence, Government of West Bengal to grant family pension in favour of the substituted applicant Mitali Gangyopadhyay and the amount of gratuity, life-time arrears of pension, amount of group insurance and amount of leave encashment in favour of the substituted applicant, respondent

ORDER SHEET

Balaram Gangopadhyay

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 1274 OF 2014**

Sanjib	<p>no. 7 and respondent no. 8 in equal one third share on verification of record, if not already paid, 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.</p> <p style="text-align: center;">With the above direction, the original application stands disposed of.</p> <p style="text-align: center;">Let a plain copy of this order be supplied to both parties.</p> <p>(S.K. DAS) MEMBER(A)</p> <p style="text-align: right;">(R. K. BAG) MEMBER (J)</p>	
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