

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

Case No – **OA 279 OF 2019**

Krishna Ghosh & Ors. 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
05 19.11.2019	<p>For the Applicants : Mr. S. Bhattacharjee, Learned Advocate.</p> <p>For the Respondent : Mr. S.N. Ray, Learned Advocate.</p> <p>For the AG (A&amp;E),WB : Mr. B. Mitra, Departmental Representative.</p> <p style="text-align: center;">Affidavit of service filed on behalf of the applicants today is kept on record.</p> <p style="text-align: center;">The applicants have prayed for direction upon the respondents for disbursement of the amount of death gratuity of their deceased father after setting aside the order dated September 10, 2018 issued by the respondent no. 4 on September 10, 2018.</p> <p style="text-align: center;">One Gangadhar Ghosh worked as Night Guard in the Directorate of Commercial Taxes, Government of West Bengal. He died-in-harness on June 16, 2017 while he was working in the office of the respondent no. 5, Additional Commissioner, Directorate of Commercial Taxes, Durgapur Zone, Government of West Bengal leaving behind his three daughters who are the applicants in the original application. Gangadhar Ghosh nominated the applicants for receiving the amount of death gratuity in the event of his death. The respondent no. 4 has</p>	

# ORDER SHEET

Krishna Ghosh & Ors.

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

.....

Case No. **OA 279 OF 2019**

communicated to the Pension Sanctioning Authority on September 10, 2018 that the nomination made by the deceased employee Gangadhar Ghosh is not in the proper form and the applicants being the married daughters of the deceased Government employee are not entitled to receive death gratuity in terms of the provisions of Rule 7 (1) (e) of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 [in short, the DCRB Rules of 1971]. In view of such objection raised by the respondent no. 4, the death gratuity was not released in favour of the applicants by the Pension Sanctioning Authority.

Having heard Learned Counsel for the applicants, Learned Counsel for the state respondents and the Departmental Representative of the respondent no. 4, we have to decide whether the applicants being the married daughters of the deceased Government employee are entitled to get the amount of death gratuity of their deceased father.

The members of family of a Government employee are entitled to receive death gratuity in terms of the provisions of Rule 7 (1) (e) of the DCRB Rules of 1971. It is relevant to quote the provisions of Rule 7 (1) (e) of the DCRB Rules of 1971 :

**“7 (1) (e) “family” includes the following relatives of Government servant, namely :**

**(1) for the purpose of a death gratuity,-**

- (i) wife in the case of a male officer,**
- (ii) husband in the case of a female officer,**

# ORDER SHEET

Krishna Ghosh & Ors.

Form No. ....

**Vs.**

**The State of West Bengal & Ors.**

Case No. OA 279 OF 2019

- (iii) sons including stepsons,**
- (iv) unmarried and widowed daughters (including step-daughters),**
- (v) brothers below the age of 18 years and unmarried or widowed sisters,**
- (vi) father,**
- (vii) mother"**

On perusal of the above provisions of the DCRB Rules of 1971, we find that the married daughters of the deceased Government employee are excluded from the definition of family for the purpose of disbursement of death gratuity. Note V annexed to Rule 100 of the DCRB Rules of 1971 lays down that the amount of death gratuity will lapse to the Government if the Government employee dies without living any member of the family enumerated in Rule 7 (1) (e) of the DCRB Rules of 1971, provided the said Government employee died without nominating any person for receiving the amount of death gratuity. In the instant case, the deceased Government employee Gangadhar Ghosh nominated his three married daughters for the purpose of receiving the amount of death gratuity in the event of his death, though the said nomination was not made in the prescribed form. Since the nomination was made by the deceased Government employee in favour of his daughters, we are of the view that the intention of the Government employee was to give the amount of death gratuity in favour of his married daughters who are entitled to inherit the

## ORDER SHEET

Krishna Ghosh & Ors.

Form No. ....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA 279 OF 2019**

property of their father in terms of the provisions of Hindu Succession Act, 1956. In the absence of existence of any member of the family of Gangadhar Ghosh as enumerated in Rule 7 (1) (e) of the DCRB Rules of 1971, we would like to hold that the applicants are eligible to receive the amount of death gratuity even though they are married daughters of their deceased father.

The applicants have also prayed for leave encashment of their deceased father Gangadhar Ghosh. Admittedly, leave encashment has not been disbursed till date. The applicants being the only legal heirs of the deceased Gangadhar Ghosh are entitled to receive the amount of leave encashment in equal one third share, provided Earned Leave was available in the credit of the deceased employee on the date of his death.

In view of our above findings, we direct the respondent no. 5, Additional Commissioner, Directorate of Commercial Taxes, Durgapur Zone, Government of West Bengal to take steps to disburse the amount of death gratuity of the deceased Gangadhar Ghosh in favour of three applicants in equal one third share and to take steps for disbursement of the amount of leave encashment of the deceased Gangadhar Ghosh in favour of three applicants in equal one third share within a period of 12 (twelve) weeks from the date of communication of the order.

**ORDER SHEET**

Krishna Ghosh & Ors.

Form No.

.....

**Vs.**

**The State of West Bengal & Ors.**

.....

Case No. **OA 279 OF 2019**

Sanjib	<p>With the above directions, the original application is <b>disposed of.</b></p> <p>Let a plain copy of this order be supplied to all the parties.</p> <p>( S.K. DAS ) MEMBER(A)</p> <p>( R. K. BAG ) MEMBER (J)</p>	
--------	---	--