

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 407 of 2017

Smt. Purnima Das & Others 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
18 26.11.2019	<p>For the Applicant : Mr. S.N. Ray, Learned Advocate.</p> <p>For the Respondent : Mr. M.N. Roy, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p>The original applicant has prayed for direction upon the respondents for regularisation of absence from duty during the period from March 20, 2003 to September 13, 2011 and payment of pension and other retirement benefits.</p> <p>The original applicant Ashoke Kumar Das joined as Night Guard (Group-D post) in the office of respondent no. 3 on March 31, 1976. He retired from service on February 28, 2017. The original applicant did not get any pension and retirement benefits as the period of his absence from duty for about (08) eight years (05) five months and (25) twenty five days (from March 20, 2003 to September 13, 2011) was not regularised by grant of leave. The original applicant died on September 12, 2018 during pendency of the present application before the Tribunal leaving behind the present applicants as legal heirs. Accordingly, the present applicants have been substituted in place of the original applicant in terms of the order dated August 16, 2019 passed in MA-117 of 2019.</p> <p>It appears from the materials on record that the original</p>	

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<p>applicant repeatedly submitted representation before the respondents for regularisation of his absence from duty by grant of Extra-Ordinary Leave in terms of the provisions of Rule 175 (1) (a) of WBSR, Part-I. It also appears from the record that the respondent no. 3, District Welfare Officer, Backward Classes Welfare, Nadia forwarded the case of the original applicant for grant of Extra-Ordinary Leave before the respondent no. 2, Commissioner, Backward Classes Welfare Directorate on various occasions viz. March 26, 2014, August 22, 2014, September 1, 2015 and January 19, 2016. The correspondences made between the respondents in connection with regularisation of absence of the original applicant indicate that on October 20, 2016 the Joint Secretary to the Government of West Bengal, Department of Backward Classes Welfare asked the respondent no. 2 for taking necessary action for regularisation of absence of the original applicant on the basis of the note submitted by the Finance Department, Government of West Bengal on August 18, 2016. It appears from the said note of the Finance Department that the administrative department would examine the case of the original applicant in terms of the provisions of Rule 34 (1) read with Rule 175 of WBSR, Part-I for the purpose of regularisation of absence during the period from March 20, 2003 to September 13, 2011. However, nothing is on record to indicate that the Department of Backward Classes Welfare or the Commissioner of Backward Classes Welfare Directorate has taken any decision for regularisation of absence of the original</p>	
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applicant. However, Mr. M.N. Roy, Learned Counsel representing the state respondents, has placed on record copy of letter dated July 16, 2019 issued by the respondent no. 3, wherefrom it appears that the absence of the original applicant has been regularised and the case of the applicant is being processed for pension. In the absence of production of specific order in connection with regularisation of absence of the original applicant from March 20, 2003 to September 13, 2011, we cannot persuade ourselves to form opinion that the absence of the original applicant has already been regularised as reflected from the letter of the respondent no. 4 on July 16, 2019.

Having heard Learned Counsel representing the applicant, Learned Counsel representing the state respondents and the Departmental Representative of the respondent AG, West Bengal, we are of the view that the Departmental Secretary should take a decision for regularisation of absence of the original applicant from duty during the period from March 20, 2003 to September 13, 2011 in terms of the provisions of Rule 34(1) read with Rule 175 (1) of WBSR, Part-I within specific period of time, so that the legal heirs of the deceased original applicant may get benefit of service of the original applicant without further delay.

In view of our above findings, the respondent no. 1, Principal Secretary to the Government of West Bengal, Backward Classes Welfare Department is directed to take a

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decision about regularisation of absence of the original applicant during the period from March 20, 2003 to September 13, 2011 in terms of the provisions of Rule 34(1) read with Rule 175(1) of WBSR, Part-I by passing a reasoned order within a period of 8 (eight) weeks from the date of communication of the order and to forward the said reasoned order to the applicant and the respondent no. 3, District Welfare Officer, Backward Classes Welfare, Nadia within a period of 1 (one) week thereafter. The respondent no. 3, District Welfare Officer, Backward Classes Welfare, Nadia is directed to process the case of the original applicant for grant of lifetime arrears of pension and other retirement benefits in terms of the provisions of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 within a period of 8 (eight) weeks from the date of receiving order of the respondent no. 1, so that the legal heirs of the original deceased applicant may get retirement benefits of service of the original applicant as early as possible, preferably within a period of six months from the date of communication of the order.

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

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

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)