

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 47 OF 2020**

Purnima Mondal 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
02 27.02.2020	<p>For the Applicant : Mr. S. Bhattacharya, Learned Advocate.</p> <p>For the Respondent : Mr. S. N. Ray, Learned Advocate.</p> <p>For the AG (A&E),WB : Mr. B. Mitra, Departmental Representative.</p> <p style="text-align: center;">Affidavit of service filed on behalf of the applicant is kept on record.</p> <p>The applicant has prayed for direction upon the respondents for grant of full family pension in favour of the applicant w.e.f. May 29, 2002 and Death Gratuity and Leave Encashment of her husband along with 10% interest on the said amount of money.</p> <p>One Sarat Chandra Mondal was Group-D employee in the establishment of Block Primary Health Centre, Rajnagar. He died on harness on May 28, 2002 leaving behind the applicant Purnima Mondal as his second wife and two children born from the first wife of Sarat Chandra Mondal. The marriage solemnised between Sarat Chandra Mondal and his first wife Rina Chowdhury alias Mondal was dissolved by Decree of Divorce on September 29, 1993 in MAT. Suit No. 30 of 1990. Sarat Chandra Mondal married the applicant for the second time on March 2, 1995. It appears from letter dated August 23, 2018 addressed to the applicant Purnima Mondal by Deputy Chief Medical Officer of Health-I,</p>	

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Birbhum that two children of the first wife of Sarat Chandra Mondal are alive. Learned Counsel for the applicant submits that out of two children of the first wife of Sarat Chandra Mondal, one is minor son and the other is married daughter, though the said facts have not been pleaded by the applicant in the original application. He further submits that one child was also born from the second wife of the deceased Sarat Chandra Mondal.

With the above factual matrix, Learned Counsel for the applicant contends that the applicant has already received the amount of Leave Encashment and as such the applicant is not pressing for the claim for payment of leave salary. We have heard Learned Counsel representing the state respondents and the Departmental Representative of the respondent AG, West Bengal.

The question for consideration of the Tribunal is whether the applicant is entitled to get the entire amount of Death Gratuity and the entire amount of family pension as the second wife of Sarat Chandra Mondal with effect from May 29, 2002. The contention of the applicant is that Sarat Chandra Mondal died-in-harness leaving behind the applicant Purnima Mondal and her child and two children of the first wife as legal heirs. On perusal of the definition of "family" for payment of death gratuity as laid down in Rule 7(e)(1) of West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 (in short, the DCRB Rules, 1971), we find that the Death Gratuity of the deceased Government employee will be equally divided among the applicant and her son and the son and eligible daughter of the first wife. Similarly, the amount of family pension will be equally divided between the applicant and the

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eligible child of the first wife in terms of the definition of "family" for payment of family pension as laid down in Rule 7(e)(2) and the provisions of Note (ii) and Note (iii) appended to Rule 104 of the DCRB Rules, 1971. In the absence of sufficient information before us, we are not in a position to hold which of the children of the first wife will be eligible to get the share of the family pension and which members of the family of the deceased Sarat Chandra Mondal will get the share of Death Gratuity and as such the same will be decided in terms of the provisions of the DCRB Rules, 1971 as enumerated by us hereinabove.

Under the above circumstances, we direct the respondent no. 4, the Chief Medical Officer of Health, Birbhum to decide the share of Death Gratuity and family pension among the applicant and the eligible children of the deceased Sarat Chandra Mondal in terms of the provisions of the DCRB Rules, 1971 by passing a reasoned order after giving the applicant Purnima Mondal and the children of the first wife of Sarat Chandra Mondal an opportunity of hearing within a period of 12 (twelve) weeks from the date of communication of the order and take necessary follow up action for disbursement of family pension and Death Gratuity of the deceased Sarat Chandra Mondal within a period of 8 (eight) weeks thereafter, if the same has not been released in the meantime.

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)

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