

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

**Present-**

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

Case No – **OA 561 OF 2015**

**Kalpana Adhikary 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
11 21.03.2018	<p><b>For the Applicant</b> : Mrs. S. Agarwal, Learned Advocate.</p> <p><b>For the Respondents</b> : Mr. A.L. Basu, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to release family pension and other retirement benefits after the death of her father Tarapada Adhikary by filing original application under section 19 of the Administrative Tribunals Act, 1985.</p> <p>It appears from the materials on record that one Tarapada Adhikary died-in-harness on September 25, 2006 while he was working as Grade-I Peon under the Forest Department, Government of West Bengal. It further appears from the report submitted by Block Development Officer, Sandeshkhali-II Development Block that one Sandhya Rani Adhikary was the first wife of deceased Tarapada Adhikary and the present applicant Kalpana Adhikary is the daughter of Tarapada Adhikary from his first wife. It further appears from the contents of reply submitted on behalf of the state respondents that one Sova Adhikary is the second wife of the deceased Tarapada Adhikary. Tarapada Adhikary had two sons – Utpal Adhikary and Prasanta Adhikary and one daughter</p>	

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Parvati Adhikary from his second wife. It also appears from record that Sandhya Rani Adhikary, first wife of the deceased Tarapada Adhikary died on December 9, 2013. Since Tarapada Adhikary contracted second marriage during lifetime of his first wife Sandhya Rani Adhikary and since they are governed under the provisions of Hindu Law, the second wife of the deceased Tarapada Adhikary is not entitled to get family pension. However, the first wife Sandhya Rani Adhikary is entitled to get family pension as per provisions of Rule 104 and 105 of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971 (hereinafter referred to as DCRB Rules, 1971). Admittedly, the first wife Sandhya Rani Adhikary is now dead. Accordingly, the arrears of family pension admissible to the first wife Sandhya Rani Adhikary will devolve on her daughter, who happens to be the present applicant of this case.

It further appears from the materials on record that the present applicant was more than 21 years old at the time of death of her mother on December 9, 2013 and as such she is not entitled to get family pension as per provisions of Rule 104 of DCRB Rules, 1971. The pension sanctioning authority will decide which of the children of second wife of Tarapada Adhikary is entitled

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to get family pension as per provisions of Rule 104 and 105 of DCRB Rules, 1971, as we have already observed that the second wife is not entitled to get family pension.

The legal heirs of the deceased Tarapada Adhikary are entitled to get retirement benefits like Gratuity, Leave Encashment etc. We have already observed that the first wife of Tarapada Adhikary, Sandhya Rani Adhikary since deceased and the daughter of the first wife – the present applicant, two sons – Utpal Adhikary and Prasanta Adhikary and one daughter Parvati Adhikary from the second wife of Tarapada Adhikary are legal heirs of Tarapada Adhikary. The retirement benefits admissible to the deceased Tarapada Adhikary will be divided among the above legal heirs in equal share. However, the share of retirement benefits of the deceased Tarapada Adhikary admissible to the first wife will devolve on the applicant as legal heir of first wife of Tarapada Adhikary, since deceased.

In view of our above findings, we direct the respondent no. 3, Principal Chief Conservator of Forest, Government of West Bengal to finalise the issue of release arrears of family pension from September 26, 2006 to December 9, 2013 in favour of the present applicant and

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to release of family pension in favour of eligible child of second wife of the deceased Tarapara Adhikary w.e.f. December 10, 2013, if any, within a period of 12 (twelve) weeks from the date of communication of the order. The said respondent no. 3 is further directed to finalise the process for release of retirement benefits of the deceased Tarapada Adhikary in favour of his existing legal heirs including the present applicant as observed by us hereinabove within a period of 12 (twelve) weeks 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 both parties.

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

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

Sanjib