

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

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

Case No – OA 660 OF 2015

PRATIMA MAITY 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
<p>9 21.03.2018</p>	<p>For the Applicant : Mr. Mohit Chatterjee Learned Advocate</p> <p>For the Respondents: Mr. M.N. Ray Learned Advocate</p> <p>For the Principal Accountant : Mr. Biswanath Mitra General (A&amp;E), West Bengal Departmental Representative</p> <p>The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 through her Power of Attorney holder praying for direction upon the respondents to release family pension in favour of the applicant.</p> <p>One Madhusudan Maity worked in the office of Deputy Director, Reeling under Textile (Sericulture) in the District of Malda. He retired as Assistant Inspector of the Department on May 31, 1997. He enjoyed pension as government employee till the time of his death on August 16, 2011. The applicant claims to have married the deceased Madhusudan Maity on August 1, 1990. The applicant further claims that a child was born from the wed lock on June 15, 1991. The applicant made attempt only six days before the death of Madhusudan Maity for</p>	

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	<p>registration of marriage by submitting an application on August 1, 2011, but no certificate of registration of marriage is produced before the Tribunal. The applicant has produced Aadhaar Card, Ration Card and the Admit Card of her son for appearing at Madhyamik Examination of the year 2008 to substantiate her claim as wife of the deceased Madhusudan Maity. The applicant submitted the application for release of family pension of deceased Madhusudan Maity in her favour on February 8, 2013. The respondent No. 3, Deputy Director, Textile (Sericulture) Malda has communicated to the applicant that her claim for family pension has been rejected as her name was not disclosed as wife of Madhusudan Maity before his retirement on May 31, 1997. The family pension was not admissible to the applicant as Madhusudan Maity did not make any provision for family pension in the application submitted by him for grant of pension.</p> <p>Learned Counsel representing the applicant contends that Madhusudan Maity has recognized the applicant as his legally married wife by making a declaration in the application for registration of marriage under Hindu Marriage Act, 1955, which was submitted on</p>	

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	<p>August 1, 2011 i.e. before six days of death of Madhusudan Maity. By referring to the Aadhaar Cards and Ration Cards issued in favour of the applicant and her son and the copy of the Admit Card issued in favour of the son of the applicant for appearing in Madhyamik Examination of 2008, Learned Counsel further submits that Madhusudan Maity has not only recognized the applicant as his legally married wife, but also recognized the paternity of the son of the applicant. He has relied on the Division Bench Judgement of the Hon'ble High Court at Calcutta in case of "Bikash Kumar Mukherjee &amp; Ors. v. Smt. Nanda Rani Mukherjee &amp; Ors." reported in AIR 1979 Cal. 358 in support of his above contention.</p> <p>Mr. Manujendra Narayan Ray, Learned Counsel representing the State respondents referred to the copy of Pension Payment Order issued in favour of Madhusudan Maity (Annexure "D" of the original application) and submitted that the applicant did not disclose any information with regard to the family and did not pray for family pension at the time of submission of application for pension and thereby Pension Payment Order is silent about family pension.</p>	

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	<p>Mr. Biswanath Mitra, authorized representative of the respondent No. 4 has placed the original file containing the application of Madhusudan Maity for grant of pension, wherefrom we find that Madhusudan Maity has clearly mentioned that he has no family and as such he is not praying for any family pension. This application for grant of pension was submitted by Madhusudan Maity almost after seven years of the date of the alleged marriage.</p> <p>We would like to consider whether the applicant is entitled to get family pension as legally married wife of Madhusudan Maity. In “Bikash Kumar Mukherjee &amp; Ors. v. Smt. Nanda Rani Mukherjee &amp; Ors.” (supra) the Hon’ble Division Bench of the High Court at Calcutta dealt with appeal where the plaintiffs claimed for declaration of title of land on the basis of relationship as husband and wife. It is held by the Hon’ble High Court that when a man lives with a woman for long period of time and the man acknowledges the woman and her children as his wife and his own children and the said recognition is reflected in the documents like ration card, voters list and admission register of the school, there is a strong presumption that the woman is the wife of the man</p>	

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	<p>and the children born from the said women are legitimate children of the said man. In the instant case, the applicant claims that her marriage with Madhusudan Maity took place on August 1, 1990 and Madhusudan Maity retired from service on May 31, 1997. Madhusudan Maity submitted application for pension in the month of March, 1997 without disclosing the name of the applicant as his wife and without making any claim for family pension. The Pension Payment Order (Annexure “D” to the original application) has rightly reflected that there was no claim of Madhusudan Maity for family pension. Had there been any intention on the part of Madhusudan Maity to recognise the applicant as his wife after almost seven years of alleged marriage on August 1, 1990, he would have disclosed the name of the applicant as wife at least in the application for pension and he would have made a claim for family pension in favour of the applicant.</p> <p>Now, we would like to consider the documents placed on record in support of the claim that Madhusudan Maity recognised the applicant as his legally married wife. On close scrutiny of Aadhaar Cards and the ration cards issued in favour of the applicant and her son respectively, we find that the Aadhaar Cards were issued in the year</p>	

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	<p>2013 and the ration cards were issued in the year 2012 i.e. long after the death of Madhusudan maity on August 16, 2011. The other document in which the name of Madhusudan Maity appears as the father of the son of the applicant is the admit card issued on May 6, 2009 for appearance of the son of the applicant in Madhyamik Examination of the year 2008. This admit card indicates that this is a duplicate admit card procured by the applicant for the purpose of claim that Madhusudan Maity was the father of the son of the applicant. We are unable to rely on this document on the following grounds : first, the document is a duplicate admit card; secondly, the name of the school in which the son of the applicant was admitted for study has not been disclosed anywhere in the application; and thirdly, marks sheet of Madhyamik Examination is not produced by the applicant to establish that her son really appeared in Madhyamik Examination of 2008. Accordingly, the ration cards, Aadhaar Cards and admit card, produced in support of the claim that Madhusudan Maity was the husband of the applicant, cannot be relied on as the documents have been procured mostly after the death of Madhusudan Maity. Since the documents have been procured after the death of Madhusudan Maity and since the intention of</p>	

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SCN.	<p>Madhusudan Maity to recognise the applicant as his wife is not reflected from the application form submitted by Madhusudan Maity for grant of pension, we are of the view that Madhusudan Maity had no intention to recognise the applicant as his legally married wife. The facts of the present case are clearly distinguishable from facts “Bikash Kumar Mukherjee &amp; Ors. v. Smt. Nanda Rani Mukherjee &amp; Ors.”(supra) and as such, the ratio of the said decision has no bearing on the facts of the present case.</p> <p>The upshot of our entire observation is that the applicant is not entitled to claim family pension as wife of Madhusudan Maity. The original application is, thus, dismissed.</p> <p>Let a plain copy of the order be supplied to the respective parties.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(R.K. Bag) MEMBER (J)</p>	