

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. OA – 46 of 2022

Purnima Mondal - VERSUS - The State of West Bengal & Others

Serial No. For the Applicant : Mr. S. Bhattacharjee,
and Advocate

Date of order 7
12.07.2022 For the Respondents : Mr. G.P. Banerjee,
Advocate

For the Respondent No.
8 & 9 : Mr. M. Karim,
Advocate

For the Pr. A.G. (A & E),
West Bengal : Mr. B. Mitra,
Departmental Representative

In this application Purnima Mondal, the applicant has prayed for certain reliefs, the relevant portion of which is as under:

“ (a) A mandatory order directing the respondent authorities to pay full pension from the date when the children of the first wife of the deceased husband of the applicant have attained majority and also arrears of pension lying due from the date of attainment of majority of the children of the first wife of the deceased husband of the applicant and also share of gratuity of the applicant together with other due benefits of the deceased in terms of the DCRB Rules 1971 together with interest @ 10% per annum till the date of actual payment and to act in accordance with law. ”

It appears from the application that Sarat Chandra Mondal, a group – D employee in the Department of Health & Family Welfare, Government of West Bengal had expired on 29th May, 2002 while in service. The applicant has stated that Sarat Chandra Mondal, her husband had earlier married Rina Chowdhury Mondal. Thereafter, Rina Chowdhury filed a matrimonial suit, being MAT Suit No. 30 of 1990, before the learned District Judge, Birbhum. On 29th September, 1993, the learned Additional District Judge, 1st Court at Suri, Birbhum, passed a

ORDER SHEET

Form No.

Purnima Mondal

Vs.

Case No. **OA – 46 of 2022**

THE STATE OF WEST BENGAL & ORS.

decree dissolving the marriage of Sarat Mondal with Rina Chowdhury Mondal.

Thereafter Sarat Chandra Mondal married the applicant on 2nd March, 1995 and the said marriage was recorded in the Hindu Marriage register. According to the applicant, she is entitled to full family pension with all consequential benefits and other death cum retiral benefits with effect from 29th May, 2002 when her husband expired. Since the respondents did not release family pension and other retiral benefits of her deceased husband, she filed an application, being O.A. No. 13760 of 2013, before the Tribunal and the said application was disposed of on 18th February, 2014 holding that the applicant is entitled to family pension alone in view of the decree for divorce and the subsequent marriage of the applicant with Sarat Chandra Mondal. Thereafter the Deputy Chief Medical Officer of Health – I, Birbhum by Memo dated 23rd August, 2018 intimated the applicant that the death gratuity of the employee was yet to be released. Thereafter, on 15th July, 2019, the applicant made a representation to the Chief Medical Officer of Health, Birbhum, the respondent no. 4, that though she is getting family pension from November, 2014, however, it is not fully paid. The applicant, again filed an application, being O.A. No. 47 of 2020, before the Tribunal which was disposed of by order dated 27th November, 2020 directing the Chief Medical Officer, Health, Birbhum the respondent no. 4 to decide the share of death gratuity and family pension amongst the applicant and the eligible children of the deceased Sarat Chandra Mondal in terms of the provisions of the D.C.R.B. 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 and to take necessary follow up action for disbursement of family pension and death gratuity of the deceased Sarat Chandra Mondal if the same was not released in the meantime. Consequentially the Chief Medical Officer of Health, Birbhum by Memo dated 22nd June, 2020 intimated the applicant and the children of the first wife to be present during hearing on 8th July, 2020. It has

ORDER SHEET

Form No.

Purnima Mondal

Case No. **OA – 46 of 2022**

Vs.

THE STATE OF WEST BENGAL & ORS.

been alleged that though the applicant was present, however the children of the first wife did not turn up and no order could be passed on that day. Thereafter, the Chief Medical Officer of Health, Birbhum passed an order on 13th July, 2020 directing the Block Medical Officer of Health, Rajnagar B.H.P.C., Birbhum the respondent no. 5, being the pension sanctioning authority, to equally divide the amount of death gratuity and family pension among the applicant and the children of the first wife of the deceased as per D.C.R.B. Rules read with 7(e)(1) for death gratuity and Rule 7(c)(2) for family pension. It has been stated that though the children of the first wife of her deceased husband have already attained 25 years of age and the applicant in her representation on 6th August, 2020 has claimed full pension and equal share of gratuity with the children of the first wife of her deceased husband, it has not been granted. Though the Block Medical Officer of Health, Rajnagar, B.P.H.C., Birbhum requested Pritam Mondal and Mousumi Mondal, children of the first wife of the deceased to produce certain documents, as evident from the intimation dated 9th September, 2020, being annexure 'M' of the application, they are yet to respond which is evident from the Memo dated 23rd November, 2020 issued by the Chief Medical Officer, Birbhum, being annexure 'N' to the application.

Mr. S. Bhattacharjee, learned advocate for the applicant relying on the reply filed by the respondent no. 8 and 9 submits as the children of the first wife have attained majority, the applicant is entitled to get full pension and 50% of the gratuity. According to him, as evident from the reply filed by the private respondents, the age of Pritam Mondal is 36 years. Moreover, according to him, Mousumi Mondal, the daughter out of the first marriage is entitled to family pension from 29th May, 2002 to 1ST August, 2006 as evident from the intimation dated 24th February, 2021 issued by the Senior Accounts Officer to the Block Medical Officer of Health, Rajnagar B.P.H.C., Birbhum, being annexure 'P' to the application.

ORDER SHEET

Form No.

Purnima Mondal

Case No. **OA – 46 of 2022**

Vs.
THE STATE OF WEST BENGAL & ORS.

Mr. G.P. Banerjee, learned advocate for the State respondents submits that since the children of the first wife of late Sarat Chandra Mondal have attained majority, the applicant is entitled to full pension from the date when the children of the first wife had attained majority and is also entitled to 50% of the Provident Fund, Leave Salary and Group Insurance.

Mr. B. Mitra, the Departmental Representative for the Accountant General (A & E), West Bengal, the respondent no. 6 supports the stand of the State Respondents.

Heard Mr. M. Karim, learned advocate for the respondent nos. 8 and 9.

Having heard the learned advocates for the parties, since admittedly the children of the first wife of Sarat Chandra Mondal have attained majority, considering the said fact the Chief Medical Officer of Health, Birbhum, the respondent no. 4 is directed to issue necessary orders for payment of full family pension to the applicant. So far as payment of arrears are concerned, the State respondent no. 4 is directed to pay 50% of arrear of late Sarat Chandra Mondal to the applicant and the balance 50% to Pritam Mondal and Mousumi Mondal, respondent no. 8 & 9. So far as disbursement of provident fund, leave salary, gratuity and group insurance are concerned, the State respondent no. 4 shall issue necessary orders for payment of 50% of the same to the applicant and the balance 50% to Mousumi Mondal and Pritam Mondal, the respondent nos. 8 & 9, if not already paid. This exercise shall be carried out by the Respondent no. 4 within fifteen weeks from the date of presentation of copy of this order downloaded from the website from the Tribunal along with a copy of the original application.

A.K.P.

SOUMITRA PAL
CHAIRMAN