

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. OA – 97 of 2023**

**Tarun Kumar Mukherjee - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No.	For the Applicant	: Ms. R. Patra,
and		Advocate
Date of order		
<u>3</u>	For the Respondents	: None.
14.07.2023		
	For the Pr. A.G. (A & E), West Bengal	: Mr. B. Mitra, (Departmental Representative)

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels, the case is taken up for consideration sitting singly.

Ms. R. Patra, learned counsel for the applicant confirms that in terms of the Tribunal's order dated 11.04.2023, respondent no. 3, Executive Engineer, Birbhum Highway Division, P.W. (Roads), Birbhum has been served copy of this application along with copy of the order.

The applicant has prayed for a direction to the concerned authority to add the name of Sikha Mukherjee as the wife of Tarun Mukherjee, Ex-Work Assistant in the office of Executive Engineer, Birbhum Highway Division, P.W.D. (Roads). Birbhum. The prayer also as a direction to the concerned respondent to cancel the Memo dated 26.06.2019 and Memo dated 30.01.2023 after investigating the name of the applicant in the family pension.

In this connection, a representation was furnished before the respondent no. 3, Executive Engineer. It appears from the representation that the marriage of the employee with the applicant, Sikha Mukherjee was solemnised on 11.05.1985. This second marriage appears to have been solemnised while the first marriage was in existence. The office of the Principal Accountant General in a Memo dated 26.04.2019 addressed to the respondent no. 3 also makes a reference on the second marriage while the first marriage was alive and observes that the second marriage be treated as void, and therefore, Smt. Sikha Mukherjee is not entitled to get family pension. Similarly,

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another correspondence No. 93-F(Pen)-N/F/1P-272/2022 dated 30<sup>th</sup> January, 2023 of the Finance Department appearing at page 27 of this application also makes the same observation that the second marriage of the applicant Sikha Mukherjee should be treated as void due to the fact that this marriage was solemnised during lifetime of the first wife.

After hearing submission of the learned counsel and considering the facts of this matter, it is the observation of this Tribunal that this application is inherently a matter relating to the legality of the marriage of the applicant. As it appears that since this marriage was solemnised while the first wife was still alive, the respondents had declared his marriage as void. Therefore, it is the opinion of this Tribunal that such determination to decide whether such marriage was valid or void does not lie with it. The question of granting family pension to the applicant will arise only after the issue relating to the marriage is first settled. Accordingly, this application is disposed of with liberty to approach any appropriate forum, if so desired.

SAYEED AHMED BABA  
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P