

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 163 of 2024

Mampi Bhattacharjee. -- **VERSUS** – The State of West Bengal & Others

Serial No. and
Date of order

For the Applicant

: Mr. Saurav Bhattacharjee,
Mrs. Subarna Das,
Learned Advocates.

06
07.03.2025

For the State Respondents

: Mr. Sankha Ghosh,
Learned Advocate.

For the Principal Accountant
General (A&E), West Bengal.

: Mr. Biswanath 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 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

In this instant application the applicant Mampi Bhattacharjee praying for disbursement of family pension of her own share and other death benefits such as P.F., Gratuity, G.I. and other dues, if any, in terms of reasoned order dated 21.09.2022 passed by the Dy. Director (Hydraulics) River Research Institute, I & W Directorate.

Brief history of the case is the deceased Govt. Employee Late Rajib Bhattacharjee, Ex-Khalasi of River Research Institute died in harness on 20.07.2020. He joined as Khalasi in River Research Institute, I & W Directorate on 24.04.2000. His first wife Rinku Bhattacharjee pre-deceased on 22.02.1996. Thereafter, late Rajib Bhattacharjee married Soma Bhattacharjee (Mondal) i.e. the respondent no. 6. Out of said wedlock, one son, namely Arindam Bhattacharjee, respondent no. 7 and one daughter namely Koyel Bhattacharjee, the respondent no. 8, were born. Rajib Bhattacharjee has the following legal heirs :

- (1) Mampi Bhattacharjee, daughter of 1st wife ;
- (2) Soma Bhattacharjee (Mondal), 2nd wife ;
- (3) Arindam Bhattacharjee, son of 2nd wife, and

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(4) Koyel Bhattacharjee, daughter of 2nd wife.

In terms of the reasoned order dated 21.09.2022, late Rajib Bhattacharjee submitted his nomination paper during his life time on 22.03.2018 in respect of his retirement benefits in favour of Mampi Bhattacharjee with 100% share. The nomination paper submitted by him during his service tenure on 22.03.2018 were not accepted by the pension sanctioning authority due to non-countersigned by the competent authority i.e. the Head of Office, which is a mandatory provision as per DCRB Rules, 1971 read with Finance Department Memo No. 1050-F(Pen) dated 02.12.2005.

In case of Death Gratuity the following observations are made:

(a) If nomination is accepted by the Head of Office as advised by the Dy. Director concerned even at a later date, the nomination should be treated as valid and Nominee should get all the benefits. [Rule 100 of WBS DCRB Rules, 1971] (Most Acceptable);

And

(b) If nomination is NOT accepted by the Head of Office, Gratuity amount should be distributed among all the surviving family members. [Rule 7 of WBS DCRB Rules, 1971].

In this context it is the considered view of the Tribunal that the nomination papers submitted by the ex-Govt. Employee, late Rajib Bhattacharjee is defective and not valid. Moreover, the respondent no. 6 i.e. 2nd wife of Late Rajib Bhattacharjee, namely Soma Bhattacharjee (Mondal) has submitted her application on 29.06.2021 and claimed her benefits. The nominee is the custodian of money and not the owner of the entire share of money.

Hence, in terms of the first part of reasoned order dated 21.09.2022 and after considering Rule 104 sub-rule (ii) of DCRB Rules, 1971, the

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Tribunal agrees that :-

- (i) Soma Bhattacharjee, 2nd wife is entitled to get 50% share of family pension, and
- (ii) The remaining 50% share shall be payable to applicant Mampi Bhattacharjee, being unmarried daughter borne out of first wife.

However, regarding disbursement of other death benefits such as G.P.F., Gratuity, G.I. and Leave Salary, the Tribunal disagrees with the second part of the impugned order and opines that as the nomination is not in accordance with the Rules, in such case the sole nomination in the name of the applicant herein is void ab initio and as such the whole death benefits such as G.P.F., Gratuity, G.I. and Leave Salary are to be disbursed amongst all the legal heirs of late Rajib Bhattacharjee in equal shares in accordance with the prevailing Rules.

It's made clear that as per the submission of the applicant, Office of the Accountant General in his Memo dated 17.07.2023 has asked for the death certificate of late Rinku Bhattacharjee, 1st wife of the deceased Govt. employee. But since the applicant was too young and minor at the time of death of her mother, Rinku Bhattacharjee, she couldn't find out the death certificate at present. However, she could trace the Burning Ghat certificate showing date of death of her mother, Rinku Bhattacharjee. In view of such circumstances, the Tribunal is of the opinion that as a special case the Burning Ghat certificate of Rinku Bhattacharjee be considered as the proof of death and all pensionary benefits in respect of late Rajib Bhattacharjee be processed accordingly.

With the above observations, the respondent no. 4, the Director of Research Institute, I & W Directorate, is directed to take final decision in terms of the above observation within a period of 4 months and submit the proposal to the Principal Accountant General (A&E), West Bengal, if all the

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legal heirs of late Rajib Bhattacharjee are otherwise entitled.

This application with the above direction is disposed of.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.