

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. OA – 301 of 2022

LATIKA DUTTA - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mr. A.K. Lahiri, Mr. A.R. Chatterjee, Advocates
<u>6</u> 15.03.2023	For the State Respondents	:	Mr. S. Ghosh, Advocate
	For the Pr. A.G. (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.

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

The issue in this application is relating to the name of nominee mentioned in the pension proposal of the employee. It appears from the submissions that the employee, Amaresh Dutta, a Pump Operator with the Department of Irrigation & Waterways and posted in the district of Nadia included the name of one Ujjawala Dutta as wife and nominee to receive family pension in the event of his death. Such proposal having the name of Ujjawala Dutta as his wife was submitted on 16.12.2014 by the Block Development Officer, Karimpur—II to the Principal Accountant General (A & E). Presently, Amaresh Dutta, the husband is receiving pension after his superannuation since 31.08.2015.

Mr. Lahiri submits that her husband's second marriage with another woman, Ujjawala Dutta is void in law since he solemnised this marriage while Latika Dutta, the applicant and the first wife was still alive. As wife, she has the sole right to receive family pension after adding her name in the nomination papers. Since the husband has not only solemnised marriage which is not legal but has also added

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the name of Ujjawala Dutta as wife for family pension. Prayer is that this proposal which was sent to the office of A.G. be modified after adding her name in place of Ujjawala Dutta. Submission of Mr. Lahiri is for a direction to the Block Development Officer to consider the applicant's representation submitted on 21.01.2015, which was followed by a letter addressed to the Respondent from the learned counsel on 15.03.2021. Mr. Lahiri submits that although proper notice was served upon the private respondents No. 5 & 6 and the affidavit of service has been affirmed in the Tribunal but they have failed to appear on all dates of hearing.

It is evident that despite notice being served, none had appeared on the previous occasions and today. Last chance was also given to the private respondents No. 5 & 6 to appear on the next date.

After hearing the submissions of the learned counsels and perusing the records, it is clear that the applicant, Latika Dutta married Amaresh Dutta in 1978 and this marriage still subsists. The couple has three daughters. Although there was some disharmony in the marital relationship, the marriage was never dissolved *albeit* applicant has lodged a case against her husband for domestic violence. The case is still pending.

While the first marriage was still in existence, Amaresh Dutta solemnised another marriage with Ujjawala Saha (Dutta) in 1984 in violation of Service Rules. The application has been filed in this Tribunal to change the name of Ujjawala Dutta with the name of the applicant, Latika Dutta in the nomination paper for family pension. In the meantime, Amaresh Dutta has retired and receiving pension.

The learned counsel for the applicant refers to *Rule 7 (e)(2) (i) of West Bengal Services (Death-cum-Retirement Benefit) Rules*, the relevant portion of which is as under:

“Rule 7 (e) “Family” includes the following relatives of a Government servant, namely –

(1)

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- (2) *for the purpose of a family pension. –*
- (i) *wife in the case of a male officer,*
 - (ii) *husband in the case of a female officer,*
 - (iii) *minor sons including adopted sons,*
 - (iv) *unmarried minor daughters including adopted daughters,*
 - (v) *dependant parents.”*

After hearing the submissions and examining the records, it is the opinion of the Tribunal that it was wrong and illegal on the part of the government employee, Amaresh Dutta to have not only suppressed the fact that he married Ujjawala Dutta while the first marriage of Latika Dutta is still in existence. Moreover, it was also wrong and immoral on the part of Amaresh Dutta, ignoring his wife Latika Dutta and three daughters, having proposed the name of Ujjawala Dutta as nominee for family pension.

It is evident from page 33, which is a copy of the pension paper of Amaresh Dutta, submitted by the Block Development Officer, Karimpur—II to the Principal Accountant General (A & E), in which at serial No.9, the name of Ujjawala Dutta appears as nominee for family pension.

It also appears from page 34 that the B.D.O., Karimpur-II had called Latika Dutta for a personal hearing on 21.01.2015 to present relevant documents in connection with the petition she had submitted before him. However, it is not clear from the record and submission whether Latika Dutta was heard and her documents examined. No reasoned order was passed by the B.D.O. in connection with Latika Dutta's claim as first wife and nominee for Family Pension.

Since the marriage of Amaresh Dutta with Ujjawala Dutta was held while the first marriage of Latika Dutta is still in existence, therefore, proposing the name of Ujjal Dutta as wife for family pension is against the Service Rules and therefore, liable to be set aside.

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Thus, the Tribunal comes to the conclusion that while Latika Dutta, the first wife is still alive and her marriage with Amaresh Dutta still subsists, the proposing of Ujjawala Dutta as recipient for the family pension is illegal and is liable to be set aside. Therefore, the Tribunal sets aside the Memo No. 3131 dated 16.12.2014 proposing the name of Ujjawala Dutta as nominee for family pension. The Block Development Officer, Karimpur—II is directed to resubmit the pension paper with the name of Latika Dutta as wife for the family pension and update the Service Book after making necessary corrections. Such revised nomination paper in the name of Latika Dutta along with the corrected Service Book be submitted to the office of the Principal Accountant General (A & E), West Bengal, Kolkata within eight weeks from the date of communication of this order. The applicant, Latika Dutta be informed accordingly with a copy of the proposal in her name within two weeks after submission to the Principal Accountant General (A & E).

The application is accordingly disposed of.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.